

Nevada Advisory Committee to the U.S. Commission on Civil Rights

Public Meeting: Municipal Fines & Fees in Nevada

March 15, 2017



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NEVADA ADVISORY COMMITTEE

to the

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U.S. COMMISSION ON CIVIL RIGHTS

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PUBLIC MEETING: MUNICIPAL FINES AND FEES IN NEVADA

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Nevada Department of
Employment, Training and Rehabilitation

2800 East St. Louis Avenue

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Las Vegas, Nevada 89104

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March 15, 2017

9:00 a.m.

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REPORTED BY: LORI M. JUDD, CCR #233, FAPR, RMR

1 APPEARANCES:

2 Nevada Commission on Civil Rights Committee Members:

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Las Vegas, NV

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ANGELICA TREVINO

23 Support Services Specialist

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1 PANEL MEMBERS

2 Government and Law Enforcement Panel - page 10

3 DANA HLAVAC

Court Administrator, Las Vegas Municipal Court

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BILL ZIHLMANN

5 Court Administrator, Henderson Municipal Court

6 EARL MITCHELL

Constable, City of Henderson Township

7

SAM DIAZ

8 Commission Officer and Government Liaison

Las Vegas Metropolitan Police Department

9

KELLY McMAHILL

10 Las Vegas Metropolitan Police Department

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Elected Officials Panel - page 73

13

MICHELE FIORE

14 Former Assemblywoman, District 4

15 DINA NEAL

Assemblywoman, District 7

16

LEISA MOSELEY

17 Founder, The Action Company

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1 PANEL MEMBERS (Continued)
2 Policy Experts Panel - page 107
3 EGAN WALKER
Justice, Second Judicial District Court
4
DR. NANCY E. BRUNE, Executive Director
5 MEGAN RAUCH
Kenny Guinn Center for Policy Priorities
6
NICOLE AUSTIN-HILLERY
7 Director and Counsel, Brennan Center for Justice
At New York University
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THOMAS HARVEY
9 Executive Director, ArchCity Defenders
10
Advocates and Community Members Panel - page 169
11
AMY ROSE
12 Legal Director, American Civil Liberties Union, Nevada
13 ALEX CHERUP
Vice President, NAACP Las Vegas
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DUSTIN MARCELLO, ESQ.
15 Defense Attorney, Pitaro & Fumo Law
16 JEFFREY BARR, ESQ.
Partner, Ashcraft & Barr, LLP
17
HANNAH BROWN
18 President Emeritus, Urban Chamber of Commerce
19
OPEN FORUM - page 230
20 Lonnie L. Feemster, Reno
Pat Lynch, Reno
21
22 Jesiah DeChanel, Las Vegas
Joseph Maridon, Esq., Las Vegas
23
24 -o0o-
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1 LAS VEGAS, NEVADA, MARCH 15, 2017, 9:00 A.M.

2 * * * * *

3 CHAIRPERSON BLAYLOCK: Good morning. This
4 meeting of the Nevada Advisory Committee to the U.S.
5 Commission on Civil Rights shall come to order.

6 For the benefit of those in the audience, I
7 shall introduce my colleagues and myself. I'm Wendell
8 Blaylock, the Chair of the Nevada Advisory Committee.

9 Members of the committee are Kathleen
10 Bergquist, University of Nevada Las Vegas; Sondra
11 Cosgrove, League of Women Voters of Nevada; Carol
12 Del Carol, Nevada Federation of Republican Women; David
13 Fott, University of Nevada Las Vegas; Kara Jenkins,
14 Nevada Equal Rights Commission; Kay Kindred, University
15 of Nevada Las Vegas.

16 Joining us from Reno is Theresa Navarro,
17 community activist; John Ponder, founder and CEO, Hope
18 for Prisoners.

19 We have a quorum present.

20 Also present are regional program staff from
21 the commission, David Mussatt, the supervisory chief;
22 Ana Victoria Fortes, civil rights analyst; and Angelica
23 Trevino, support services specialist.

24 I also want to note that we are live in Reno
25 and joined by Carolyn Allen, who is also with the

1 commission.

2 The U.S. Commission on Civil Rights is an
3 independent bipartisan agency of the Federal Government
4 charged with studying discrimination or denial of equal
5 protection of the laws because of race, color,
6 religion, sex, age, disability, national origin, or the
7 administration of justice.

8 In each of the 50 states and the District of
9 Columbia an advisory committee to the commission has
10 been established, and they're made up of bipartisan
11 persons who serve without compensation to advise the
12 commission on relevant information concerning their
13 respective states.

14 At today's meeting it is our purpose to hear
15 testimony to identify if whether municipal fines and
16 fees disparately impact federally protected communities
17 in Nevada, and if so, what steps can be taken to remedy
18 the impact.

19 The shooting death of unarmed teenager
20 Michael Brown by police in Ferguson, Missouri, on 9
21 August 2014 started a national conversation on
22 policing. This led to a report by the U.S. Department
23 of Justice, Civil Rights Division, analyzing the
24 practices of the Ferguson Police Department.

25 Among its findings, the report revealed that

1 Ferguson's law enforcement efforts were focused on
2 generating revenue from municipal fines and fees at the
3 expense of insuring public safety needs.

4 The committee is to determine if the use of
5 municipal fines and fees is similar in Nevada or its
6 municipalities. Please note, if speakers begin to veer
7 away from the civil rights questions at hand, or go off
8 topic, I will politely interrupt you and ask you to
9 refrain from doing so.

10 At the outset, I want to remind everyone that
11 this meeting is being transcribed by a court reporter
12 for a public record. As mentioned, we are joined by
13 additional panelists and members of the public who will
14 be presenting from Reno. I ask that you please give
15 them our undivided attention and engagement.

16 We're fortunate and thankful to have such a
17 balanced and diverse panel, and we're pleased that
18 you're going to share with us your expertise at these
19 meetings. For those of you who use social media, we
20 have a hashtag for today's event, and it is
21 #accesstojustice, all one word, and the U.S. Commission
22 on Civil Rights Twitter handle is @USCCRgov.

23 I would also like to present the ground rules
24 for today's meeting. This is a public meeting, open to
25 the media and the general public. We have a full

1 schedule of people who will be making presentations
2 within the limited time available.

3 This will include a presentation by each
4 panelist of approximately 12 to 14 minutes. After all
5 of the panelists have concluded their statements, the
6 committee members will engage them in questions and
7 answers. Panelists, please see that I will be holding
8 up time cards, time cards to ensure that you keep
9 within the allotted time limit.

10 To accommodate persons who are not on the
11 agenda, but wish to make statements, we have scheduled
12 an open forum from 4:15 p.m. to 5:00 p.m.. If you wish
13 to speak, please add your name to the list at the
14 registration table.

15 In addition, written statements may be
16 submitted by mail to the U.S. Commission on Civil
17 Rights at 300 North Los Angeles Street, Suite 2010, Los
18 Angeles, California, 90012. Or by e-mail to AFORTES at
19 USCCR.gov.

20 You may also call area code (213)894-3437 for
21 more information.

22 In that some of the statements made today may
23 be controversial, we want to ensure that all invited
24 guests do not defame or degrade any person or
25 organization. As the Chair, I reserve the privilege to

1 cut any statement short that defames, degrades, or do
2 not pertain to the issue at hand.

3 In order to ensure that all aspects of the
4 issues are represented, knowledgeable persons with a
5 wide variety of experience and viewpoints have been
6 invited to share information with us. Any person or
7 organization that feels defamed or degraded by the
8 statements made in these proceedings may provide a
9 public response during the open comment period.

10 Alternately, such persons or organizations
11 can file written statements for inclusion in the
12 proceedings. I urge all persons making presentations
13 to be judicious in their statements.

14 The advisory committee does appreciate the
15 willingness of all participants to share their views
16 and experiences with us.

17 Finally, the rules for the question and
18 answer portions of the panel are as follows: The
19 committee may ask questions of the entire panel or
20 individual members of the panel. After all panelists
21 have had an opportunity to provide their written
22 statements, advisory committee members must be
23 recognized by the Chair before asking any questions of
24 the participants.

25 In addition, in order to ensure all committee

1 members get a chance to address the panel, each
2 committee member will be limited to one question, plus
3 a follow-up.

4 When five minutes are left in the session,
5 the chair will announce that we will ask the last
6 question.

7 * * * * *

8 GOVERNMENT AND LAW ENFORCEMENT PANEL

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10 Dana Hlavac

Court Administrator, LV Municipal Court

11 Bill Zihlmann,

Court Administrator, Henderson Muni Court

12 Earl Mitchell

Constable, City of Henderson Township

13 Sam Diaz

Commission Officer and Government Liaison, LVMPD

14 Kelly McMahon, LVMPD

Dexter Thomas

15 Court Administrator, Reno Justice Court

16 * * * * *

17 CHAIRPERSON BLAYLOCK: I would now like to
18 begin our meeting by introducing the government and law
19 enforcement panel. Joining us today we have Dana
20 Hlavac, Court Administrator, Las Vegas Municipal Court;
21 Bill Zihlmann, Court Administrator, Henderson Municipal
22 Court; Earl Mitchell, Constable, City of Las Vegas --
23 City of Henderson Township; from the Las Vegas
24 Metropolitan Police Department we have Lieutenant Kelly
25 McMahon and Officer Sam Diaz. And joining us via

1 teleconference in Reno, Dexter Thomas, Court
2 Administrator, Reno Justice Court.

3 I would like -- now like to turn the meeting
4 over to Dana.

5 MR. HLAVAC: Thank you, Chairman Blaylock.
6 Members of the committee, I would like to give you some
7 brief background to put my comments and observations in
8 perspective.

9 During the course of my roughly 35 year legal
10 career, I have been both a deputy prosecutor, an
11 assistant prosecutor, a Chief Public Defender, a Deputy
12 County Manager, City Manager, Budget Director, and
13 Chief Financial Officer for cities.

14 I came to the City of Las Vegas to the court
15 administrator for Las Vegas Municipal Court in June of
16 2014. At that time one of the major problems that was
17 brought to my attention was the state of the case
18 management system where essentially all of the data is
19 kept.

20 That system had been converted approximately
21 eight years ago from a Legacy system. A lot of the
22 data was not brought over from the Legacy system. When
23 it was brought over, a lot of it was scrubbed. The
24 historical information on gender, race, ethnicity did
25 not get pulled over from the Legacy system.

1 That being said, we have run several studies
2 over the years to look at gender and ethnicity
3 discrepancies or disparities in our data, and one of
4 the sad things is that data is only as good as the data
5 goes in. So when we run our reports, we find a
6 relative equality among white, black, and Hispanic
7 groups in almost all categories: Offenses charged,
8 fines assessed, fines paid, amounts owing.

9 The difficulty with that is the data that
10 shows ethnicity only represents about 45 percent of all
11 people in our database.

12 Roughly 55 percent of every -- of all the
13 people who are entered into the database over a given
14 period of time do not have an ethnicity defined within
15 the data that's coming across.

16 What we find is a lot of that is simply based
17 on the technology that's coming across from law
18 enforcement. A lot of our citations come across from
19 the system called Brazos. A lot of times the
20 information that's entered into Brazos simply does not
21 have that data. So we have a lot of null data fields
22 or unspecified data feeds when it comes to ethnicity.

23 While perhaps that's not surprising, as a
24 minor side note I'd also note that about 15 percent of
25 all of our defendants have no gender. So it's not a

1 specific item solely related to ethnicity and
2 background.

3 With that in mind, I'd just briefly like to
4 review the structure of fees and assessments within
5 Nevada generally and then more specifically within Las
6 Vegas Municipal Court.

7 The Las Vegas Legislature has set up a fee
8 and assessment structure within NRS 176 that has both
9 permissive and mandatory fees added on top of fines.

10 Before I get too far into that, just a
11 comment on fines. As the courts, we really have no
12 control over fines that are assessed relative to plea
13 bargains. That's purely within the discretion of the
14 City Attorney and what they bargain with the defendant
15 the court can either accept or reject those plea
16 bargains.

17 The way I believe most courts are set up is a
18 defendant can enter pleas on-line or automatically or
19 at a front counter, but that has to be in conjunction
20 with a matrix that's approved by the City Attorney.
21 The courts cannot randomly say we'll charge this person
22 this much of a fine, or another person a fine.

23 So for the vast majority of our defendants,
24 particularly exclusively on the traffic side who enter
25 pleas either on-line or at the counter, without an

1 appearance before a judge or a city attorney, they do
2 so in conjunction with pre-set fines that the City
3 Attorney has set and approved the court to accept under
4 those plea agreements.

5 On top of those fines come the assessments.
6 Those assessments range from a general assessment,
7 which is split up between County juvenile, municipal
8 special revenue, the state general fund, and a large
9 portion go into the State Administrative Office of the
10 Courts, funding some specialty courts as well as
11 funding CPS programs, criminal history programs.
12 There's an additional assessment which is -- in Las
13 Vegas goes to construction. That's a \$10 per case that
14 essentially paid for the Regional Justice Center.
15 That's a continuing assessment for the period of 50
16 years, expiring in 2045.

17 There's an additional assessment of \$7.00
18 which is mandatory from the legislature, which goes to
19 fund specialty courts. That assessment is sent to AOC.
20 The state general fund distributes it to AOC and it
21 comes back to courts to fund specialty court
22 rehabilitative and therapeutic programs.

23 There is a \$3.00 genetic marker, mandatory
24 assessment on every case, and that goes to the County
25 Treasurer, essentially to pay for genetic marking and

1 DNA testing.

2 The last is a permissive fee, which is a
3 collection fee, and essentially it's structured up to
4 \$100 if the debt is under \$2,000, up to \$500 if the
5 debt is less -- or greater than \$2,000 but less than
6 \$5,000, or up to ten percent if the debt is over
7 \$5,000. That is permissive and is not regularly
8 applied and in fact, is often waived.

9 Within the Municipal Court we have averaged
10 over the last five years -- and I use the term
11 "averaged" because it's been significantly declining
12 based on case filings -- but we have averaged roughly
13 \$22 million of fines, fees, assessments over those five
14 years.

15 During those same five years approximately 15
16 percent of all those fines, fees and assessments have
17 been waived or vacated by judicial review. Only a
18 judge has the authority to vacate or waive those fines
19 and fees.

20 In that most of our cases are
21 traffic-related, roughly 80 percent of our cases, and
22 about 90 percent of those never appear before a judge
23 or a city attorney, but the fact they plea over the
24 internet or by mail, those don't get waivers.

25 So predominantly only the criminal cases

1 where defendants are regularly appearing in front of
2 judges do they have -- regularly obtain waivers.

3 In Las Vegas specific, the additional fees
4 that we have are warrant fees. So if you go into
5 warrant, there's an additional fee. For a first time
6 warrant it is currently set up at an \$85.00 fee.

7 These fees were structured many, many years
8 ago. I've seen the initial study that set the fees.
9 It was based on cost recovery model.

10 The second warrant fee escalates to \$100.
11 The third escalates to \$125 or \$150, and then they
12 escalate \$25.00 per warrant after. The average
13 individual who goes into warrant goes into warrant
14 between one and two times, about 1.7.

15 Obviously you can't go into warrant .7 times,
16 but the average person is going into warrant more than
17 once when they do go warrant. We are in the process of
18 restructuring the warrant fees to recognize the fact
19 that there's really no incremental difference to us or
20 the jail whether a person is arrested on a first
21 warrant or a second warrant. We're normalizing those
22 fees so it will be \$125 per warrant, regardless of how
23 many times you go into warrant.

24 Additionally within the Las Vegas Municipal
25 Court we have a -- essentially a user fee, which is a

1 credit card convenience fee. If you choose to pay with
2 a credit card, we incur costs from the banks, as well
3 as technology costs with the card readers and the
4 programming that goes in. That cost is \$2.50 cents per
5 transaction.

6 The last we looked, that's the lowest fee
7 within the valley, and we hope to keep it there. Our
8 goal is simply recover our costs and nothing else.

9 Lastly, we have cost recovery fees. If
10 somebody needs certified records or particular records
11 searched or records sealed, there's a cost for the time
12 to recoup the staff time spent doing that.

13 The unique aspect of Nevada -- and I have
14 practiced law and justice issues in Colorado and
15 Arizona before here -- is that even traffic cases are
16 criminal.

17 So all cases before the municipal court are
18 subject to warrants for failure to appear. There's
19 been a great deal of discussion about that, whether
20 that's fair.

21 In looking at our warrant data the people who
22 get arrested on warrants versus the people who are
23 assessed fees or go into warrant, the percentages are
24 the same as represented by the underlying data
25 regarding gender and ethnicity. So there appears to be

1 no significant difference in execution of those
2 warrants, the bulk of those coming off of Metro or
3 Highway Patrol during random stops for other offenses.

4 That does kind of bring us full circle to
5 where we are and where we intend to go from here. We
6 obviously have a lack of good data. The City is
7 committed to get good data. We've invested over a
8 million dollars in a new case management system. We're
9 in the middle of that process of getting that system up
10 and running.

11 Obviously we're only going to be able to
12 bring over the data that exists, so it will be several
13 years before we have clean data that we can move
14 forward from in kind of a reliable fashion.

15 We continue to work with both Metro and the
16 Highway Patrol on Brazos interfaces. Technology
17 continues to advance to the point where systems are
18 available where you can swipe a driver's license and
19 the data is read off the back of the driver's license
20 and that becomes part of the citation.

21 We certainly look forward to working on those
22 technological aspects, which will increase the accuracy
23 of our data.

24 The other thing that we noticed fairly early
25 on is while we provided an option to paying for those

1 individuals who said they were too poor to pay, that
2 option wasn't good. It was get screened for whether
3 you are telling the truth, and whether you are truly
4 poor, and if we think you are telling the truth, we'll
5 put you on a work program.

6 The problem with that is approximately 70
7 percent of the people who said they wanted to go on the
8 work program, when they were told what they had to do
9 to bring in to -- just the documents, which was your
10 rent, your utility bills, your W-2's, your pay stubs or
11 income tax returns -- 70 percent of those people gave
12 up, and they just went into warrant.

13 We determined that that was unacceptable, and
14 we have changed that system now to essentially if you
15 assert that you are too poor to pay, you are in the
16 work program. There is no screening for indigency for
17 somebody who asserts they are too poor to pay and don't
18 have income.

19 What we found is that 80 percent of the
20 people who actually enter the work program choose not
21 to work and end up paying. So we've found that it's
22 kind of a self-policing system. Those who assert and
23 actually have to go out and work and then clean up and
24 do things within the community choose ultimately to pay
25 versus work. Our warrant rates have gone down

1 significantly as a result of this.

2 Obviously, as I said, we're restructuring our
3 warrant fees. We have drastically increased the use of
4 OR releases on all traffic arrests. Our goal is if
5 somebody is arrested on an underlying traffic warrant,
6 if they have no other issues, our goal is to get them
7 released as quickly as possible, so they do not spend
8 any unnecessary time in jail.

9 That's been very productive of the people.
10 We are releasing, 90 percent of them now are still
11 showing up the very next day after we release them. So
12 it's a very successful program.

13 With that in mind, I won't squeeze the last
14 minute out of my time. I'll defer to Mr. Zihlmann.

15 CHAIRPERSON BLAYLOCK: Thank you.

16 MR. ZIHLMANN: My name is Bill Zihlmann. I'm
17 the court administrator for the Henderson Municipal
18 Court. I have been with the City of Henderson since
19 July of 1993. Working as a court -- first as a court
20 clerk, an officer supervisor, assistant court
21 administrator and court administrator since May of
22 2013.

23 I'm honored to be with you today for this
24 advisory committee.

25 The City of Henderson is Nevada's second

1 largest city, with a population of more than 300,000
2 individuals. Our current demographic profile for
3 residents' race is 78.5 percent white; 5.7 percent
4 black or African-American; .4 percent American Indian
5 and Alaskan native; 7.4 percent Asian; .4 percent
6 Native Hawaiian and other Pacific Islander; 3.6 percent
7 some other race, and 3.6 percent two or more races.

8 The median household income is over \$63,000
9 and an estimated 9.8 percent of the population's income
10 is below the poverty level.

11 The City is currently recognized as the
12 Second Safest City in America by Forbes Magazine. It's
13 been named three times to Money Magazine's list of best
14 places to live in America.

15 Henderson is southern Nevada's only
16 full-service city, meaning the City has dedicated
17 police, fire, water and sewer services.

18 Our property tax has not changed since 1992.
19 It's currently set at .7108 per \$100 of assessed
20 valuation, and I believe our sales tax rate is
21 currently 8.10 percent.

22 As far as the Municipal Court goes, similar
23 to that data structure in Las Vegas, within the state,
24 according to legislature constitution, once a municipal
25 court is established through a legislative act, the

1 municipal court is part of the constitutional judicial
2 system of Nevada, and enjoys all the inherent powers of
3 all constitutionally created courts.

4 But Nevada is not a unified court system. So
5 each lower court has the ability to manage their own
6 affairs, unless prescribed in statute otherwise, and
7 the judge has full discretion as far as sentencing. Of
8 course recommendations have been referred to, as far as
9 from the prosecution as well and through plea
10 bargaining.

11 The mission of our court is to administer
12 justice under the law equally, impartially, and
13 efficiently, in a safe, professional environment with
14 dignity and respect for all, to promote public safety,
15 trust and confidence.

16 The concept of individual justice in
17 individual cases has always been a tenet of our court
18 process. During the time I have been there I have
19 heard from all the judges I worked for.

20 It has kind of, you know, reared its head
21 again and with committees like this and the national
22 discussion, I wonder if standardization of fines takes
23 away from that concept. It's just one of the things
24 that, you know, down the road should be part of the
25 discussion.

1 As a limited jurisdiction court, we receive
2 traffic, parking, local ordinance and misdemeanor
3 criminal cases that occur within the City limits of
4 Henderson, and we hold hearings from arraignment to
5 trial to status checks.

6 Additionally, we have two specialty treatment
7 courts, a drug treatment for habitual offenders and a
8 veterans treatment court.

9 When my court career began in 1993 we had one
10 elected judge to serve a four-year term. Currently we
11 have three judges that are elected. They serve
12 six-year terms. So every two years I have one of the
13 three up for re-election.

14 We are supported currently by a staff
15 compliment of 58 full-time and three part-time
16 positions. We have Court Administration, Court
17 Operations, and Court Marshals divisions underneath the
18 authority and direction of the judiciary.

19 Over the past three years our court
20 operations has filed and managed an average of over
21 34,900 new cases annually, from the initial filing of
22 the complaints. Of those cases, 44 percent have been
23 defined as criminal, and 56 percent are traffic.

24 During the same three-year period, the court
25 closed an average of 36,000 cases annually.

1 We do look at best practices and guidelines
2 provided by national groups to help us manage the
3 court. We know there's a great deal of resources out
4 there. I've got a stack of stuff that I continually
5 review.

6 One of the things that we use for our
7 performance management is the Court Tools performance
8 measurement standards that the National Center for
9 State Courts has published. They have ten performance
10 measurement tools, nine of which would apply to us and
11 five of which we're using directly right now, with the
12 other four in process in some way, shape, or form. And
13 I believe they just revised measurement 7, which has to
14 do with legal financial obligations. So that's going
15 to be a topic item at the next court, or judges
16 meeting.

17 The court itself is locally funded by the
18 City of Henderson. Our current budget totals just over
19 \$7.9 million, with the general fund portion set at
20 7.132.

21 The balance is supplemented by three special
22 revenue accounts, some come out of fees and court
23 collection fees that Dana referred to.

24 If you don't know, the maximum penalty for a
25 misdemeanor offense in Nevada is a \$1,000 fine, plus

1 the administrative assessment fees, and up to six
2 months in jail.

3 The court has used what we call "bail cards"
4 since late 1992 to delineate the value of the surety
5 bond or cash required as bail for those individuals
6 that are arrested on misdemeanor offenses and wish to
7 bail out prior to appearing before a judge, or for
8 those individuals which would pay a traffic ticket in
9 lieu of personal appearance.

10 The bail amount does not necessarily mean a
11 fine may be imposed by the judge. It's just that as we
12 know, there are a lot of people that don't want to see
13 a judge, don't want to appear. If they get a speeding
14 ticket, they want to know how much it is going to cost
15 them.

16 So it's set up kind of similar to the matrix
17 that Dana that referred to, this is what he would pay,
18 if you didn't want to come to court and handle it.

19 Some moving violation offenses, such as
20 speeding in a school or construction zone, require
21 doubling the standard fine amount, which is pursuant to
22 legislative mandates within the NRS. So in a sense it
23 does tie the judges' hands. They have to and are
24 required to double the penalty if somebody is convicted
25 of driving in those zones.

1 The judges do maintain discretion as to all
2 imposed fine amounts, unless directed by statute.
3 There are statutory requirements for insurance
4 violations, domestic battery offenses on the criminal
5 side and DUI's, for example.

6 Dana referred to the administrative
7 assessment, so I won't restate all of that. But it is
8 interesting, historically I was able to look through
9 our bail cards and in 1983 the AA fee in Nevada was
10 \$10. Just 10. \$1.50 went to the County, \$2.50 went to
11 the City, and the balance to the State, and I believe
12 that changed July 1st of 1987 where a distribution
13 table was implemented via legislative change. So now
14 the AA fees are dependent upon how much the fine amount
15 is.

16 So I'll give you two examples. In 1992, if
17 the judge fined you \$50.00 for an offense, we had to
18 add \$25.00 administrative assessment. So your total
19 costs would have been \$75.00. If the fine was \$500,
20 the administrative assessment was \$100.

21 Fast-forward to 2017, a \$50.00 fine today has
22 a \$65.00 administrative assessment. A \$500 fine now
23 has \$140.00, and again, the changes to all this has
24 been through legislative action and not the courts just
25 making changes.

1 So back in 1992, if somebody got cited for
2 speeding one to ten miles over the limit, their fine
3 would have been a total of \$45 and \$10, as we would say
4 it, so \$55. Today's fine for our court would be \$100,
5 plus \$95.

6 The NRS for administrative assessments also
7 dictates in what order the court-ordered judgments
8 shall be collected. So if they are allowed to make
9 payments and installments, as we collect the monies in
10 court, all the money is paid to the administrative
11 assessments before the fine is actually collected, and
12 that's legislative.

13 Once that, and the assessments are collected,
14 then the fine is collected and deposited in the City's
15 General Fund.

16 Dana spoke over the various other court fees
17 and items, and one of the things for your information,
18 the case law that the courts work under is actually
19 derived from a case, it's called Blackjack Bonding
20 versus City of Las Vegas Muni Court, back in the year
21 2000.

22 The case resulted from a question on whether
23 or not the court could collect bail bond filing fees.
24 For me, the compelling parts to the ruling and the
25 parts that must be considered during discussions such

1 as these are: Ours is a government of separation of
2 powers.

3 Inherent judicial powers stem from two
4 sources: The separation of powers doctrine and the
5 power inherent in a court by virtue of its sheer
6 existence.

7 Under separation of powers doctrine, each
8 branch of government is considered to be co-equal, with
9 inherent powers to administer its own affairs.

10 Without inherent power to perform its duties,
11 the judiciary would become a subordinate branch of
12 government, which is contrary to the central tenet of
13 separation of powers.

14 In Nevada, once Municipal Courts are
15 established, they are a part of the constitutional
16 judicial system of Nevada, and enjoy the inherent power
17 of all constitutionally created courts, and are
18 entitled to manage internal affairs without
19 interference from separate governmental branches.

20 Judicial function includes the right to
21 exercise any lesser power that can be subsumed under,
22 or is included as an integral part of the broader
23 heading of judicial power, that is, any power or
24 authority that is inherent or incidental to judicial
25 function is properly within the realm of judicial

1 power.

2 When the legislature, by statute, authorizes
3 the exercise of an inherent judicial power, the courts
4 may acquiesce out of comity or courtesy; however, such
5 statutes are merely legislative authorizations of
6 independent rights already belonging to the judiciary.

7 A statute that attempts to limit or destroy
8 an inherent judicial power is unconstitutional.

9 That's just lifting comments made within the
10 ruling. I find -- I haven't read that for quite some
11 time, but as I was preparing for this meeting it really
12 kind of just got me thinking big picture, as far as
13 what that could mean for these discussions.

14 Similar to Las Vegas Muni Courts process,
15 individuals are given the opportunity to be heard in
16 front of the judge. Many choose not to. We offer
17 on-line payments.

18 The judges have delegated certain authority,
19 if somebody wants to enter a plea at the window where
20 they sign off that they want to waive the rights to
21 trial and just pay the citation.

22 We don't have a formal matrix as such from
23 the City Attorney. We also have alternatives, so if an
24 individual is in front of the judge, he will inquire as
25 to their ability to pay, discuss payment plan, if

1 that's necessary, also offer what we call the work
2 program, doing community service in lieu of fine
3 payment, to get credit towards their fine balance.

4 There also is a light-duty program, should
5 they have physical or health-related challenges.

6 I think one of the things that I always
7 remembered as I was preparing for this is the judge
8 that I originally worked for, the late Kenneth N.
9 Proctor, always told those in front of the bench that
10 the court does not issue warrants based on your
11 inability to pay a fine. We issue a warrant because
12 you ignored an order of the court and did not contact
13 or respond to the court.

14 To me, I still see that in all three
15 departments that I work with.

16 When individuals fail to make payments as
17 ordered by the judge, we issue notices, we do phone
18 calls, we -- of course they can always file motions by
19 either pro per or through their attorney. We research
20 data through commercial data collection vendors and we
21 get new contact information. We'll issue new notices,
22 make new phone calls.

23 We place accounts with external collection
24 agencies to see if we can recover the debt.

25 We'll issue warrants for failing to pay and

1 failing to appear after the noticing process is done.

2 We also have a what we call warrant walk-in
3 program that we started three years ago that allows
4 individuals to be scheduled for court without having to
5 post bail, without having to file a motion to see the
6 judge for the opportunity to get back into compliance
7 with the court order.

8 We cleared well over 1,600, or over 3,000
9 warrants just in the last two years alone just from
10 that, and the focus from our organization is to clear
11 the warrant.

12 Our marshals are actually in the field,
13 contacting individuals, making arrests. But their goal
14 is to clear those warrants.

15 I'm not concerned with how many they arrest,
16 it's clear. It is not to bring in bail, it's not to
17 get paid. It's to get them back on the path that they
18 need to be to be compliant with the court order.

19 Organizationally, we do reference and use a
20 lot of national organizations and publications. Nevada
21 Association of Court Executives, National Association
22 of Court Management, National Center for State Courts,
23 state justices, too.

24 In the publications that come from the
25 Conference of State Court Administrators one of my

1 favorite meetings I've with had the City was presenting
2 them the '11 to '12 policy paper regarding courts are
3 not revenue centers. Just to kind of keep in
4 perspective of, you worry about this, we'll worry about
5 this, and make sure our budget is appropriate.

6 The resource guides published by the Office
7 of Justice programs, and the court tools performance
8 measurements model.

9 Thank you.

10 CHAIRPERSON BLAYLOCK: Thank you.
11 Mr. Mitchell.

12 MR. MITCHELL: Thank you, Commission, for
13 inviting me to this panel. Earl Mitchell, and I'm the
14 Henderson Township Constable. My background is in 1986
15 I was hired by the Henderson Police Department. I put
16 in 22 years there and retired in 2008.

17 In 1994 I first ran for the Henderson
18 Constable's Office and was elected and have been there
19 for six terms, on my 23rd year. My experience is based
20 strictly on Henderson, Henderson Township.

21 Bill went over the demographics of Henderson,
22 so I'm not going to reiterate most of those.

23 The Henderson Constable's Office is a law
24 enforcement agency primarily responsible for the
25 enforcement of civil orders and service of process.

1 The agency executes orders from the courts, including
2 serving writs, garnishments, bank levies, warrants, and
3 related activities.

4 Now when I say "from the court," we mostly
5 work with the Henderson Justice Court, but we serve
6 courts from District Court, we have -- my office has
7 worked with the municipal courts from time to time, and
8 we also get processes from courts from out of state.

9 The Henderson Constable's Office also
10 performs a variety of duties under the landlord/tenant
11 statutes of NRS 118, including the posting of notices
12 and executing court-ordered evictions.

13 My office serves ten of thousands of
14 processes throughout the year, from just hanging a
15 notice referencing a start of an eviction, to court
16 orders for small claims, divorces, whatever the orders
17 might be.

18 Now there are 17 constables in the State of
19 Nevada, and like I stated before, I can only speak for
20 the actions of my office. And being an elected
21 official, I have some leeway that I'm proud of because
22 I've always believed, I have a core belief that
23 everyone should have access to the justice system.

24 My particular office, we probably deal with
25 90 percent civil and ten percent criminal.

1 The motto of my office is professionalism,
2 integrity, and compassion. That being said, I've
3 always strived to, like I said, to make sure people
4 have access, regardless of their wealth, regardless of
5 their race, they have access to the justice system.

6 Now my personal experience and observation,
7 in my 31 years in Henderson, is that our fees are set
8 by state statute and we cannot raise or exceed the fees
9 for certain services.

10 But I can lower the fees. I can waive them.
11 And so in that regard, we do work closely with the
12 courts because from time to time we will get requests
13 from the court to waive fees, which in that sense the
14 court has already done their vetting on the financial
15 hardship.

16 At other times I will get requests directly
17 from the individual, if I'll waive their fee, and my --
18 essentially, depending on their situation, sometimes
19 there's -- it may not be a, necessarily a matter where
20 they can't afford the fee, but let's say it's a
21 domestic-type situation and it's expedient where I have
22 dealt with people from out of state, I will waive the
23 fee, to make sure that individual has access to the
24 justice system.

25 What I have found is that in Henderson it's

1 not -- the fees impacting someone based on race, but on
2 their financial, their wealth. In essence, Henderson
3 is probably the highest income, median income in the
4 state. Our poverty level at least based on 2014, was
5 at 10 percent.

6 The other thing about the office is we're an
7 enterprise fund, which means that the fees that we
8 charge, they're user fees, so only someone that needs
9 to utilize the office is going to come to my office,
10 pay those fees. That funds, essentially, the entire
11 office.

12 So in that sense it is like a business,
13 because obviously I -- and it's certainly not an issue
14 of where I have to waive too many fees. I would say
15 maybe once a month I might get somebody that has that
16 request.

17 So I have to, obviously, keep a look at the
18 fees that come in to make sure that the office is
19 operated for the County, because we are part of the
20 County, that there's a reserve fund there.

21 Like I said, the fees are set by statute and
22 in my 23 years in the Constable's Office our fees have
23 only been increased twice. I think they are very
24 competitive for some of the services that we provide.

25 People can go to the private sector, but

1 being there for such a long time, people know that we
2 are compassionate, we work closely with the community.
3 I believe, I have been in law enforcement 31 years,
4 that's very important, that community relationship and
5 I've often said we are not an occupying force in
6 Baghdad, we are part of the community.

7 So word has certainly gotten around that if
8 somebody, particularly in a financial hardship, needs
9 to have service of any kind of process, come to the
10 Constable's Office, and we will take care of it.

11 So I am proud of that aspect of it. That
12 will conclude my part of it.

13 CHAIRPERSON BLAYLOCK: Thank you. Officer
14 Diaz and Lieutenant McMahill.

15 MR. DIAZ: Good morning, Chairperson Blaylock
16 and the rest of the committee members.

17 I'm Officer Sam Diaz, Las Vegas Metropolitan
18 Police Intergovernmental Services. I'm very honored to
19 be here, and as we refer to previous statements, LVMPD
20 does not set municipal fines and fees.

21 Some of those fees that we do collect from
22 citizens are costs of recouping business associated,
23 for instance, carrying a concealed weapon permit;
24 requesting a traffic accident report. Small fees
25 associated with recoup, that information.

1 So once again, we are not setting those
2 municipal fines and fees. We do have jurisdiction in
3 Clark County and in our citations are very specific
4 courts where we would put Justice Court, Municipal
5 Court, Henderson Court, school district, so on.

6 So, and then I have the pleasure of
7 introducing Lieutenant, soon to be Captain Kelly
8 McMahonill. She's been involved with part of the office
9 of internal oversight, constitutional policing with Las
10 Vegas Metro. She's been involved with this since 2012
11 and we are very proud of what we have done here in
12 Nevada and it's safe to say we are a national model for
13 taking lessons learned and moving forward.

14 Once again, I have the pleasure of
15 introducing Lieutenant Kelly McMahonill.

16 MS. MCMAHILL: Thank you. So I'd like to
17 say, as I sit here today, I learn a lot. From what I
18 just heard, it's like I'm sitting in school again.

19 I feel like we went backwards a little bit,
20 maybe we should have been at the head of the table, and
21 I say that because we are talking about fines and fees
22 that are levied.

23 Clearly we don't have control over what those
24 are, but we are the boots on the ground. Right? We
25 are the ones that write the citations. We are the ones

1 that make those arrests.

2 So I think for me today I can't talk about
3 what these gentlemen just did but what I can talk about
4 is the policing philosophy at the Las Vegas
5 Metropolitan Police Department.

6 I want to go back for just a moment and tell
7 you all that when the DOJ came out with their report on
8 Ferguson, we couldn't wait to get our hands on it in my
9 office. By nature of what we're called, we're the
10 oversight, constitutional policing, our main goal is to
11 reduce the number of deadly force incidents we have on
12 our agency, which we have been very successful in
13 doing.

14 I'll just start off by saying in 2010 we shot
15 25 people in one year. And unfortunately, over half of
16 those shouldn't have happened. I'm not saying they
17 were unlawful. What I'm saying is that we put
18 ourselves in a position that we shouldn't have been in
19 and gave ourselves no other recourse other than to use
20 deadly force.

21 Fast forward now, the work that we have done
22 with the collaborative reform process, the cops office,
23 in 2012 we were looked at by an outside consortium for
24 police equity at UCLA. I think that those outside
25 looks as to what it is that we do has really assisted

1 in getting us to where we are today.

2 Last year we had 10 officer-involved
3 shootings and I can tell you that sitting here today
4 that there's only one of those that I think tactically
5 we should have performed better. So great strides have
6 been made.

7 But as I listen to what we are talking about
8 today, I remember the day the report came out on
9 Ferguson, and we got it in our hands and we read it and
10 our goal was to break it down and look at that and ask
11 ourselves, are we doing any of the things that were
12 done there that negatively -- that took a negative
13 stance against that community.

14 As we did that, one of the things that jumped
15 out at me were fines and fees. If you take a primarily
16 minority community, and instead of doing what we
17 believe you should do, which is go in and give hope and
18 make positive change, it seemed like they are
19 compounding it with fee after fee.

20 What I mean by that is look, if you are
21 driving without a license, it's one thing to give you a
22 citation. But to tow your car, just because you can,
23 that's a whole n'other story.

24 So as we looked at those things, what we have
25 to ask ourselves, with the power that we are given, are

1 we doing something just because we can? Or are we, by
2 doing that, are we causing undo harm?

3 So one minor thing that some people may look
4 at and say well, it's minor in the grand scheme of
5 things is, if I pull someone over for not having a
6 license, or not having car insurance, I don't get to
7 just tow their car. Do you know the exorbitant amount
8 of fees that come on top of, after going to court,
9 after dealing with what they have to, then they have to
10 got their car out of hock, which is probably how they
11 get to the job that they just got.

12 So look, at Metro we do things a little bit
13 differently. Our stance on community policing is a
14 true, absolute partnership with our community, and I'm
15 going to state from just where I work at the Bolden
16 Area Command with Sam for several years.

17 Let's say we pull a woman over for driving a
18 vehicle and she has five children in there, and one of
19 them should be in a car seat. As a mother of five, I
20 take that very seriously. That to me is more serious
21 than not having car insurance; right? Because there's
22 a life at stake.

23 As opposed to citing that mother, as opposed
24 to taking all of her and her children and getting them
25 out of the car, writing the ticket, towing the car, we

1 buy a car seat.

2 We find a way to make things happen, so you
3 can make an impact in a positive way in somebody's
4 life. It's one minor story, but I'm telling you, it
5 happens day in and day out at our police department.

6 You look at how you can impact somebody's
7 life in a positive way. I'm not telling you that
8 citations aren't given, and given routinely; right?
9 Speeding in a school zone is nothing that anyone in
10 this room really should put up with.

11 But I think what I want to say most
12 importantly today is that from the boots on the ground
13 perspective, the training that we've given our people
14 in fair and impartial policing and procedural justice,
15 which is not, not necessarily to come up to someone and
16 say look, I'm the powers that be.

17 But the fact is that even if you make an
18 arrest, you walk away, and that individual thanks you,
19 that's procedural justice. That's treating people
20 fairly and insuring that they know that you respect
21 them, although you have to do your job.

22 So from our standpoint, we can't affect the
23 fees. What we can do and what we have done is change
24 the hearts and minds of our police officers to do
25 something different every single day, that if you can

1 go that extra mile, to not just use your power because
2 you can, go out of your way to not cause undo harm to
3 people, to try to be something that perhaps isn't, you
4 know, happening across this country, unfortunately.
5 But that is our stance at Metro.

6 We really truly try to step in where perhaps
7 other social services have failed people and offer hope
8 where we can. I think that we are very non-traditional
9 in that way.

10 So again, it's more of a global perspective,
11 but I think that because we're aware it starts, it
12 matters to ensure that y'all know that.

13 CHAIRPERSON BLAYLOCK: Thank you, and our
14 last presenter panelist is Dexter Thomas.

15 MR. THOMAS: Good morning, Commission. Thank
16 you for having me this morning, and good morning to my
17 esteemed colleagues.

18 I'd just like to reiterate some of the things
19 that they have already said. They have done a great
20 job of explaining Nevada and its fines and fees and how
21 they are related. But I want to bring you a little up
22 on the northern Nevada perspective.

23 So one of the things I want to talk about in
24 the beginning is what Mr. Hlavac talked about. We are
25 working with a company, Brazos. We don't get good

1 demographics. It's even tougher in northern Nevada
2 because of our population, we consider a lot of our
3 population in northern Nevada to be seasonal, or
4 vacationers.

5 Our highway, our highway Interstate 80 takes
6 you from California all the way to Utah. Some of our
7 biggest citations comes from Nevada Highway Patrol and
8 people traveling on our highways in Nevada.

9 So that being said, we are working to give
10 better demographics information. However, a lot of
11 these individuals -- and it goes back to perception of
12 policing, and also courts still unwilling in today's
13 environment to give a lot of personal information.
14 They will accept the ticket. However, sharing
15 information is not something they do readily.

16 So we do want to work with individuals and
17 work with Nevada Highway Patrol to work on that issue.

18 A little bit about the Reno Justice Courts,
19 and a little about myself. I have been in government
20 for about 20 years. I have been here in northern
21 Nevada for the last year. Prior to that I was with
22 Maricopa County in Phoenix, Arizona, working in limited
23 jurisdiction courts, for Reno -- I mean Phoenix Justice
24 Courts.

25 The Reno Justice Court is a limited

1 jurisdiction court. It's tasked with collecting fines
2 and fees. As you know, we don't keep the fines and the
3 fees. They are forwarded to the state and local
4 entities.

5 As you have been told already, those, a lot
6 of our fines and fees come from the State Legislature
7 who has imposed the administrative assessment fees,
8 court facility fees, especially court assessments, even
9 things such as DNA assessments. They are associated
10 with a lot of our fines and fees.

11 A lot of our fines and fees, and all of our
12 fines and fees are associated with some of Nevada
13 Revised Statute.

14 So, you know, you collect on those fines and
15 fees, but we have done some interesting things in
16 northern Nevada to mitigate any type of disparity, or
17 what we feel are any impartial treatment. And one of
18 the things that I want to note is that in all courts
19 we've seen the revenues based on these collections
20 dropping steadily over the years.

21 Our caseload has dropped off a little bit.
22 However, our fines and fees have dropped off
23 dramatically because it's not about the fines and fees
24 anymore. It's about people being responsible.

25 As the officer talked about, it's called

1 treating people with respect, making the highways and
2 freeways safer for everyone to travel, and that's what
3 we really focus on here in northern Nevada.

4 One of the things that we talk about, too, is
5 that we've also done our part in talking to our County
6 here to say you know what, our court is not built on
7 fines and fees. So we have done a lot to bridge that
8 gap in working with the County to review the needs of
9 our court. Because we can't run our court solely on
10 fines and fees.

11 Actually, we don't use our fines and fees to
12 run our court on a daily basis. Those fines and fees
13 are used for special projects. Mr. Hlavac talked about
14 one where all courts are engaged in and that's the case
15 management system, trying to bring the courts into the
16 21st century, 2015, and those case management systems
17 are very expensive.

18 So what we have decided to do with our fines
19 and fees that come in through assessments is use that
20 to better our case management system, to give us better
21 information to serve the public better.

22 One of the things we're most proud of, and
23 it's really on the last slide, that we have done to
24 mitigate the impact to the community, is in 2013 we
25 implemented what we call a warrant resolution program.

1 Nobody in Washoe County is going to jail
2 because they have an inability to pay. I want to be
3 clear about that.

4 What we have is similar to what I heard
5 Henderson say. We will allow individuals to come in
6 five days a week, Monday through Friday, 7:30 to 5:00.
7 If they have a warrant, they will not be arrested, to
8 resolve their case.

9 If they don't have the ability to pay, we
10 will work with them. And we don't do indigent
11 screening, as Mr. Hlavac was talking about. We
12 basically say if you can't pay, we have other options
13 for you, and a lot of this gets done outside of the
14 courtroom.

15 We have given our clerks at the counter
16 authorization to deal with a fines and fees reduction
17 at the counter for non-moving violations. So they can
18 simply come into our court and we can get them back on
19 a payment plan, or we can put them on a payment plan.
20 And it's not necessarily determined by the fine or fee,
21 it's determined by their ability, their ability to pay.

22 Some individuals say well, I can't pay. We
23 offer community service. We offer alternatives. We
24 tell them what can you do? How can we make you
25 responsible? How do we know if you get back your

1 driving privileges, or your license, how do we get you,
2 you know, taking responsibility for your actions.

3 So that's when we work with individuals.

4 Also in 2015, which was just last year, we actually
5 eliminated collecting the warrant, the program fees
6 associated with fines and fees. We no longer collect
7 the warrant fee.

8 We just felt like, as Mr. Hlavac had said
9 earlier, it didn't really make a difference in
10 somebody's ability to pay, and it didn't harm the court
11 or increase or decrease revenue. So we don't even
12 collect it anymore.

13 What we really want to do is find a way to
14 work with individuals and once again make them
15 responsible.

16 One of the things I really want to talk about
17 as well is that, you know, we're looking, where does
18 the future go. We all understand what happened in, you
19 know, in other places like Ferguson and other places
20 across the country. So the question now becomes what
21 do we do moving forward.

22 One of the things we're looking at in terms
23 of case management system and other things, there's a
24 factor called on-line dispute resolution, allowing
25 individuals to address their case through on-line

1 process.

2 While we don't have it in place, we would
3 like to, somewhere in the future, offer that. So they
4 always don't have to come to the brick and mortar
5 buildings.

6 One of the other things we like to do is
7 still continue to work on public perception. That is
8 huge, and that's why we are here talking today. What
9 is the public's perception about fines and fees?
10 People don't really know where this money goes. They
11 think the courts are getting rich from collecting this
12 money, and really, for most courts in Nevada, we don't
13 keep the bulk of the money, as you have heard.

14 A lot of that money gets spread out, and so I
15 think we really need to work on changing our
16 perception, continually working in an outreach type of
17 program with our communities, to explain to them that
18 the fines and fees, we don't have a lot of leeway in,
19 in that assessment. And once again, they come from
20 legislature. They come from laws sitting on the books
21 in Nevada.

22 So I would just say that we have to continue
23 to do that. We have to continue to work with the
24 community. Twice a year -- we just did it six months
25 ago -- we have one of the judges go on television and

1 announce our warrant resolution program, to let people
2 know, come in, we'll resolve your fines. We'll resolve
3 your fees. We'll work with you.

4 We plan to do another one late April because
5 we know travel in northern Nevada tends to pick up. As
6 we reach the nicer months of May, people want to go to
7 Lake Tahoe and California and Utah. So we'll do
8 another outreach program where we set up a day where
9 people can come in and resolve, if they have a warrant.

10 But our warrants are a little different now.
11 We just don't give a warrant just because they didn't
12 show. As the person from Henderson noted, we make
13 several efforts to contact the individuals regarding
14 warrants and about their fines and fees. If they do,
15 however, ignore that, we do issue a warrant for
16 compliance. We call it a failure to comply.

17 All we want is for people to be responsible
18 and I think the last thing that I want to note is that,
19 you know, this is a work in progress. This is will be
20 a continual work in progress. We will not find a
21 solution just today nor tomorrow. But it's something
22 that we must give effort to each and every day.

23 These individuals are our community. They
24 are part of society. We have all made mistakes. All
25 we want to do, our citizens to do, is be accountable

1 and we want to work with every individual, and so
2 that's what we are committed to do here in northern
3 Nevada.

4 Whether they live in Truckee, California,
5 whether they're coming from Utah, whether they are a
6 resident of Washoe County, or coming up from Vegas for
7 the weekend, we want to work with individuals, and so
8 that's what we pride ourselves in trying to do, each
9 and every day. With that, I'm done.

10 CHAIRPERSON BLAYLOCK: Thank you. I'd like
11 to open it up for questions from the Nevada Advisory
12 Committee.

13 MS. COSGROVE: Sandra Cosgrove. I'm with the
14 League of Women Voters of Nevada, and right now we are
15 doing a lot with mental health.

16 I know there's this idea that users should
17 pay for the system. So if you are using the system,
18 you should pay for it. If you don't want to have to
19 pay for it, stay out of the system.

20 But unfortunately, people with mental health
21 problems often can't make that decision to stay out of
22 the system.

23 Can any of you kind of address what you do
24 when you are dealing with somebody that has a mental or
25 behavior health issue?

1 MR. HLAVAC: I would be happy to address
2 that. We were fortunate to have received a grant for
3 about a million and a half dollars. We're currently
4 undergoing a program where we are doing an early
5 identification of those individuals the second they hit
6 the jail, and we're trying to direct them either into
7 our specialty court programs, or down into other
8 sandwich programs or WestCare programs with the goal
9 being to help those people find a way of life, get the
10 treatment, adapt their behaviors to stay out of the
11 system in the future.

12 Our mental health court started approximately
13 two years ago as a pilot program. Subsequently the
14 City of Las Vegas provided general funds, which is very
15 unusual for a specialty court program, and now we've
16 become very active in pursuing grant dollars to set up
17 programs that can become self-sustaining through the
18 savings that they show to the system.

19 MS. COSGROVE: Thank you.

20 MR. MITCHELL: Ms. Cosgrove, in relation to
21 the Henderson Constable's Office, and along with the
22 motto, like I said, that I have compassion, I've
23 empowered my departments on occasion when we are going
24 to do evictions that we do come across individuals that
25 need some mental health help.

1 You are right. Nevada definitely needs some
2 reforms in that area, particularly for those that can't
3 afford the system. So my deputies are empowered. We
4 just don't show up and do the eviction and get out, put
5 the person on the street.

6 We will stay with them. We will call social
7 services. My deputies, sometimes we have to do what
8 they call Legal 2000 in Nevada. We will handle that
9 ourselves and we have an ambulance show up and get the
10 person to a hospital.

11 But from there, it's out of our hands and of
12 course based on my experience and oftentimes these
13 people are released far too soon.

14 But as far as with my people, we want to make
15 sure that these individuals, we at least can get them
16 somewhere to someone that hopefully will help them. We
17 are just not putting them on the street. As the
18 lieutenant was speaking, we're part of this community
19 and even if it means some of my deputies might have 20
20 or 30 evictions, myself, my deputy director is here.
21 If I get a call that one of my deputies is tied up,
22 sometimes for hours, we'll jump in and go out there and
23 we'll handle the eviction. We want to make sure these
24 individuals get some help.

25 But from my level, all we can do is pass them

1 off to, typically it's a hospital. Beyond that, that's
2 up to the County Commission, the state legislators for
3 some reform in that area. But we do our part to see
4 that people get the help.

5 MS. MCMAHILL: I want to address from LVMPD's
6 standpoint. You know, it's one of the biggest
7 tragedies in our state, probably our country, is our
8 jail is the biggest provider of mental health. It's
9 awful.

10 We take it very seriously. We have a crisis
11 intervention team program. Almost every -- I say
12 almost every officer because some of our senior
13 officers are grandfathered in. But now in the actual
14 academy every officer is being trained 40 hours,
15 initially in mental health, and at least ten to 15 of
16 those hours are with professional doctors, and they are
17 actually going into mental health hospitals, or the
18 jail.

19 One of the things that we realized is that we
20 were giving that initial training and we weren't
21 following it up. Now we have a recertification of that
22 every year that the officers are going through, and
23 again, you know, I talked about being the boots on the
24 ground. I think the key word for us is discretion, and
25 how do we use that discretion.

1 I will tell you that routinely we are
2 choosing mental health services over arrests. It's
3 just the right thing to do.

4 It's -- and again, going back to
5 officer-involved shootings and use of force, because
6 it's really is what I deal in primarily, we are
7 constantly looking at ways to better de-escalate, ways
8 to better approach situations when we know that someone
9 has a mental health issue or a crisis.

10 So now we go so far as to write reports that
11 stay in-house. So that next time I get called to an
12 address, I have the prior information. We know what
13 worked the prior time with this individual, versus
14 maybe what didn't work and caused their issue to become
15 worse.

16 So I really do think when it comes down to
17 what we are talking about today, though it comes back
18 to the discretion that we do have at this table to deal
19 with those issues, as opposed to again doing undue
20 harm.

21 MS. COSGROVE: Thank you.

22 MR. THOMAS: Yes, I would just like to say
23 here in northern Nevada, just like in Las Vegas, this
24 mental health issue is critical to the courts.

25 We work very hard with each individual in

1 mental health issues. I think one of the gaps,
2 however, is what the officer just talked about,
3 communication and collaboration.

4 We can get into a legal process and I think
5 we do a very good job of that. What happens in
6 aftercare, what happens a few months down the road, we
7 don't always get that information. We don't know what
8 went wrong after they left the courthouse. We don't
9 know where the gap was.

10 So we have to do a better job of
11 communicating and making it a full circle. There's
12 just a lot of loopholes, a lot of gaps in the circle of
13 treatment for people with mental health issues, and
14 that would just be my suggestion.

15 CHAIRPERSON BLAYLOCK: Thank you.

16 MS. JENKINS: I want to thank everybody for
17 their testimony today. It's really helped all of us.
18 I think we're all trying to absorb everything that has
19 been said, and thank you up north as well.

20 MS. NAVARRO: I want to -- I want to ask a
21 question. Can I ask a question?

22 CHAIRPERSON BLAYLOCK: Oh, absolutely.

23 MS. NAVARRO: Okay. Thank you, I'm sorry. I
24 have a question. I just want to go back to the very
25 beginning when you talked about -- oh, I'm sorry.

1 Theresa Navarro with the Commission.

2 I just want to talk -- I just want to ask a
3 question. You talked about at the very beginning on
4 data and how you are unable to -- you are saying that
5 the data you got from about 45 percent of the people,
6 the race was equal. And 55 percent of it there was no
7 known equal as to race identity, as far as the fees.

8 What -- on your -- when you give a citation
9 or with the court system, don't they fill out something
10 to show what their race is or anything? And if we had
11 that on there, could we do a better evaluation of data?
12 I'm talking as an activist because working in this
13 community for 45 years there are discrepancies that I
14 see with families and so forth on the fees and so forth
15 from people of color.

16 So I'm trying to find out how we can have
17 data to show that there is no discrepancy.

18 MR. THOMAS: Dexter Thomas, from Reno Justice
19 Court, and our efforts to try and find that as well,
20 and one of the issues we have is that statutorily, I
21 don't believe individuals are required to give us that
22 information when they are being cited.

23 So it's very optional at this point in time.
24 So we just don't receive it. It's not on the ticket,
25 not there, so we can work -- and then it also puts the

1 officer in what I've heard is a difficult position,
2 asking that question, about gender, about ethnicity,
3 about race, age. You know, individuals are still not
4 comfortable sharing that information with police
5 officers. It's one of the difficult things, and
6 somebody else may want to chime in. That's my
7 perspective.

8 MR. HLAVAC: Chairperson Blaylock, this is
9 Dana Hlavac, back from Las Vegas Municipal Court.

10 I think that you are absolutely right, and
11 it's easy for us to look at that 45 percent of the
12 data, and even assuming it's correct, it shows that
13 that group is fairly proportionate to our demographics
14 within the City of Las Vegas.

15 However, the fact that the 55 percent that's
16 unreported or unidentified may in fact be
17 disproportionately unidentified, if -- I think as
18 Mr. Thomas may have alluded, if minorities are afraid
19 to say I'm Hispanic, I'm black, or identify themselves
20 as a minority group, then the reality is that there may
21 be disproportionate representation of minority groups
22 within that 55 percent that's not identified.

23 So I frankly have no faith in saying that the
24 45 percent that I do have is an accurate representation
25 of what the total population represents.

1 MR. ZIHLMANN: Chairman Blaylock, one of the
2 other concerns is when our case management systems were
3 built, the data tables are constructed on FBI
4 guidelines, as far as race.

5 So there's five, according to the FBI. So
6 that may be the only elements that we have. So that's,
7 like Dana said, what we get we get.

8 I would like to point out for the committee,
9 just as for future reference, if you go to the City of
10 Henderson website under our police department,
11 Henderson's Police Department has launched a police
12 data initiative in response to former President Obama's
13 Task Force on 21st Century Policing.

14 They are the first law enforcement agency to
15 participate in the PDI. So it gives the public an open
16 data format on policing data. So basically you can run
17 your own reports and see what the Henderson police is
18 doing monthly.

19 But one thing I did not address in my
20 presentation was race breakdowns within the court
21 because we honestly don't track it. Don't look at it.
22 We know the police department is required to maintain
23 that data. We can only, only deal with the cases that
24 are filed with our court. So we get what we get.

25 MS. NAVARRO: Okay, thank you.

1 MS. JENKINS: Thank you all. My question is
2 now kind of more so, because of the question that just
3 preceded mine. So we have a problem with Brazos.
4 That's clear. We are working on it.

5 We spent a million, or we're spending a
6 million dollars to implement a new kind of matrix or
7 systematic data system to capture, basically, these
8 protected categories and when we talk about disparate
9 impact, we're not talking about maybe intentionally
10 asking someone when they pull over, hey you're black or
11 you are a person of color, let me see your ID, or your
12 identification, we're talking about indigent persons
13 that may be of a particular protected category; mental
14 health, we're talking about the ADA; we're talking
15 about race, color, national origin, religion, gender
16 identity expression. Oh, that person may be
17 transgender, let me just pull them over and see.

18 What we are trying to gather from you all is
19 with the data that you have or the system tools that
20 you have, is there a disparate impact of the citations
21 that you are giving to people who are in protected
22 categories.

23 I don't like to use the word "minorities."
24 Sorry, that's just a personal preference. You can say
25 "people of color," "people who are protected

1 categories." I don't really like the term "minority
2 communities." That's just a personal preference.

3 But here's my question, and I really
4 appreciated your testimony, Lieutenant, and
5 congratulations on being promoted to Captain soon. I
6 see why they are doing it.

7 Of the citations that you guys issued, that
8 Metro, Las Vegas Metro issued, can you give me a
9 breakdown on protected categories as to who you are
10 giving the citations to? Were they more people of
11 protected categories, or were they not?

12 MS. MCMAHILL: So the answer to that is no, I
13 can't. But like you, you struggle with the title
14 "minority community," I struggle with what we're
15 talking about today, and I'll tell you why.

16 I was part of putting together a course that
17 was written by Metro and very smart professors at UNLV,
18 because we're cops and we don't pretend to know what we
19 don't know. So it was a collaboration, and it was a
20 collaboration and it's two parts: Fair and impartial
21 policing, which focuses on acknowledging that every one
22 of us in this room has bias, understanding what this
23 bias is implicit, whether it's implicit or not, owning
24 that bias, and then teaching our cops not to employ
25 that bias in any way that would then become a prejudice

1 in the line of duty.

2 So we spent a year. We taught our entire
3 agency, civilians and commissioned, and now every brand
4 new officer gets this training in the academy.

5 The second half of that training was
6 procedural justice, which is just that. It is how we
7 treat people. It's respecting people, regardless of
8 what walk of life they come from, what they do, what
9 they look like, what their religious beliefs are, all
10 the things we're talking about here today; right?

11 Not being afraid to take action, because
12 that's what we get paid to do, but respecting people in
13 the course of taking that action.

14 So like you, I very honestly say no, we don't
15 capture that right now, for many of the reasons that
16 have just been discussed.

17 We are inputting data now on using deadly
18 force into an FBI system, or we're becoming prepared to
19 do that. It's very difficult when the only race you
20 have to choose from is Caucasian; right? Or black. Or
21 Hispanic, or -- and they don't break it down. Or male
22 or female. Our world is becoming very different than
23 what those categories represent.

24 So as I speak about this, I think my struggle
25 is, as someone that's done this since 2012, is if we

1 put too much focus on gathering that data, if we tell
2 the police officer you can't leave a stop until you
3 have identified ethnicity, and you have identified the
4 sex of the individual, I feel like we're going
5 backwards a little bit.

6 What we're teaching our cops to do is go up
7 and actually address the act. Address the act. Is it
8 a violation of law or is it not?

9 Now listen, maybe that's simplistic in
10 nature. But we've already told the cops that they have
11 a bias, that everybody in this room does. To own it.
12 To not employ that in any negative way at work -- and
13 I'm simplifying it, obviously. The class is much
14 better. It's actually even been picked up federally.

15 But the point of that is that we can't do it,
16 but I'm not sure how far we want to go down that road,
17 to demand this information. Because at the end of the
18 day, part of respect is when someone says you have what
19 you need to make the arrest, we have to stop.

20 So the question really is for this room, how
21 far do we want to push that.

22 Now, when they arrest them and put them in
23 jail, we have to get to those facts, and I'll tell you
24 why. If we can't realize the sex of an individual --
25 we have had this happen -- then we endanger them. If

1 we take someone who perhaps is going through a change,
2 male-female, female to male, we have to protect them.

3 So the jail is a different animal. But if we
4 are just talking about pulling someone over and about
5 issuing a citation, right now we are very limited in
6 the information that we are allowed to probe for and
7 that we say you must give this, or else.

8 MS. JENKINS: Let me clarify. Let me
9 clarify. I really appreciate that.

10 One of the things that we are trying to
11 capture is disparate impact from people in protected
12 categories. The only way this committee is going to
13 know that certain protected categories are being
14 disproportionately impacted, because there is a bias,
15 is to know from this data that maybe 95 percent of the
16 ten people you pulled over in the last week and a half
17 happened to be people with a disability, from a
18 different country, or might be a person of color.

19 So that's our dilemma here. That's what we
20 are trying to extract from y'all. It's not saying that
21 we want you to change your method of policing and say
22 hey, what race are you, let me see your I.D. I don't
23 think that would be very good policing.

24 But we do need to know that information so
25 that we can report back because traditionally in this

1 country there's been disparate impacts of people of
2 color. That's why we have these protected categories.

3 It's been set under Title VII, the ADA, and
4 other federal laws. So that's how we are able to track
5 and report back to D.C. what's happening here in
6 Nevada. So it would be good if we could get that
7 information.

8 MS. MCMAHILL: Absolutely agree. I think
9 it's just the question is at what point do they get
10 that.

11 MS. JENKINS: Thank you all.

12 MS. NAVARRO: This is Theresa. I just want
13 to reiterate -- behind you. I'm sorry, I didn't know
14 you were going to ask a question, and I thought you
15 were going to give a speech.

16 But I want to follow up with you because I
17 agree with you. I don't expect the police officers to
18 go out there and start marking what the race is and
19 everything.

20 But you know, it's like you said, there has
21 to be some kind of data, you know. I mean what do we
22 do? Do we actually get involved as a community in
23 community programs and say we're going to go out there
24 and watch and see what the police do, and see what --
25 you know, what race the person is by just looking at

1 them? I mean, you know, if I'm stopped, people
2 automatically know that I'm Mexican because I'm brown.

3 So, you know, all we want is something. And
4 I'm going to back her up in saying we're not saying the
5 police should do that, because I don't think it's a
6 good idea. Because they already have issues, police
7 officers and so forth. So I don't want them to go out
8 and say you can ask somebody their race or anything,
9 but I do think we need some kind of data. Thank you.

10 CHAIRPERSON BLAYLOCK: Thank you.

11 Questions?

12 MR. PONDER: This is for --

13 CHAIRPERSON BLAYLOCK: Excuse me.

14 MR. PONDER: I'm sorry.

15 CHAIRPERSON BLAYLOCK: If you will mention
16 your name for our court reporter.

17 MR. PONDER: Yes, Jon Ponder, Hope for
18 Prisoners.

19 When we talk about capturing the data from
20 the police officer's standpoint, I know that there's a
21 case management system in the court called Spirit
22 Solutions that we're very familiar with. Those
23 demographics on the driver's license, if they are race,
24 color, creed, disabilities, those things are on the
25 driver's license, and I'm just thinking, you know out

1 loud here, is there a way that we could scan the
2 driver's license and that we automatically capture that
3 information without any -- asking any questions,
4 because all that information is on the driver's license
5 itself.

6 MS. MCMAHILL: I believe that's the system
7 y'all are talking about today, and I can't wait for
8 that to come on. I can tell you as an officer of the
9 law for 21 years, if I pulled someone over, it was on
10 their license, we always write it down. It's simple
11 enough to write it down, if they give it to us.

12 There were times that we would ask, and
13 again, it goes back to that respect. If you and I have
14 a good dialogue going, you are going to give me the
15 information that I ask for.

16 I think the problem is in the consistency, if
17 I'm hearing this correctly, and I see that. I do.
18 Listen, I was here when we did AB 500 forms under
19 Sheriff Keller. Every time we pulled someone over we
20 had to document what the race was, and it was just
21 uncomfortable for everybody. It was uncomfortable for
22 the officer, you know. Sir, I need your race because I
23 have to fill in the bubble on this form.

24 So I don't know what the answers are. I do
25 think what you are saying is the most viable, and

1 again, it comes back to reporting, right? If I walk
2 into the DMV and I tell them that I'm Hispanic, they
3 are going to write down what I say. They also wrote
4 down my weight, and I'm just going to tell you I might
5 have fibbed on that.

6 So the real crux of the problem is, it comes
7 back to the individual and how it is that they report.
8 I agree with you 100 percent. We have to get to the
9 bottom of this. We have to figure out if we actually
10 do have an issue here.

11 I just think that it comes back to where is
12 the right place to do that. Because as a leader in my
13 organization, the last thing I want is to send officers
14 out into the street that are so focused on what race
15 they are stopping that it overwhelms them and they
16 forget about the act and they forget to treat people
17 like people.

18 So I don't know how we do that, but yes, I
19 think that would be one of the easiest ways initially.
20 And that's what Brazos would do? Am I hearing that
21 correctly?

22 MS. BERGQUIST: I have a question. I'm
23 Kathleen Bergquist.

24 When we were having this conversation I
25 pulled out my driver's license because I knew that

1 gender was on there, but race is not on the driver's
2 license, unless that's changed.

3 So here's my question. I hear the
4 difficulties with collecting demographic data when you
5 are doing a stop. You might have a hostile person you
6 are dealing with and they don't really want to tell you
7 all their demographic information, their bio data.

8 But what I am wondering, in lieu of that,
9 that's something that I think would be easy and fast to
10 do -- maybe not fast, but easier to do, is we know that
11 there are, we have communities -- we have a pretty
12 highly segregated city and area in the greater Las
13 Vegas area.

14 So looking at the data based on zip code and
15 based on area would be telling, in and of itself.

16 Clearly not everybody that is pulled over in
17 a geographic area is from that area, but from a certain
18 preliminary, looking at what overall, if there is any
19 kind of preliminary way of evaluating that, right? So
20 I don't know if maybe someone has ever done that, but I
21 would be fascinated, from the east side to the west
22 side, talking about Henderson being the highest
23 socioeconomic community, that kind of analysis
24 certainly could be done.

25 CHAIRPERSON BLAYLOCK: Thank you.

1 MS. KINDRED: Kay Kindred. My question is a
2 little different, off topic from what the past several
3 have been. But I'm interested in hearing more about
4 the discretionary waivers of fees.

5 All of you mentioned that you have discretion
6 in waiving fees for indigency, and I'm wondering if you
7 could talk about whether there are some standards or
8 guidelines that are used.

9 I understand that the pre-screening that you
10 mentioned wasn't a good idea and was abandoned. But
11 how do you ensure some consistency in that process, or
12 what guidelines do you do? And this is for the panel
13 in general.

14 MR. HLAVAC: Thank you, Chairperson Blaylock.
15 Ms. Kindred, unfortunately, as soon as you use the
16 terms "discretion," it becomes a judicial function and
17 a judicial function can't really be delegated if it
18 involves discretion.

19 So when someone needs a discretionary waiver,
20 they have to appear in front of a judge, and that level
21 of discretion, how that discretion is applied is
22 individual to each judgement.

23 MR. ZIHLMANN: If I may comment, two incidents
24 kind of came to mind when you spoke was for somebody to
25 qualify for Public Defender representation, they have

1 to fill out an application that's based on the Federal
2 poverty guidelines.

3 That data is reviewed in front of a judge,
4 who makes the determination, yes, you qualify, and
5 therefore the Public Defender is appointed for you.

6 The other thing has to do with when an
7 individual that perhaps is on fine payments wants to
8 change to the work program or community service, they
9 actually, as Dana indicated, have to go before a judge
10 for the judge to do what is called a Gilbert hearing
11 to, again, determine financial ability to pay or not.

12 So we are restricted, as far as what the
13 judges have to do.

14 MS. KINDRED: There are some guidelines.

15 MR. HLAVAC: Yes. Basically, federal poverty
16 guidelines.

17 MR. THOMAS: This is Dexter Thomas. I'm
18 sorry, I just wanted to respond to that because that's
19 a very good question.

20 Here in Reno at the Reno Justice Court our
21 judicial officers, when you talk about that warrant
22 fee, as a bench, a collective bench, we want to remove
23 that discretion. And as Mr. Hlavac said, it's a bench
24 decision.

25 So in 2016 they made a decision as a bench

1 not to charge the warrant fee at all, to no one, to
2 remove that issue. So we don't charge it at all.

3 There's no warrant fee.

4 CHAIRPERSON BLAYLOCK: Thank you.

5 MR. MITCHELL: Ms. Kindred, for the Henderson
6 Constable's Office I do have the luxury of that
7 discretion. The only discretion I have, though, is
8 over the fees that apply to the constable's office, and
9 I've also granted that to my deputy director who is
10 here.

11 Now, essentially when someone asks for a
12 waiver of fees, myself or Deputy Director Kilgore,
13 typically will go out and meet with the person, see
14 what their situation is, and to my knowledge, I don't
15 think we've ever refused anyone.

16 So I have a simple vetting system. I'm sure
17 there have been people through the years that are
18 playing it, but it's certainly not an issue with my
19 agency. Like I said, I maybe only average once a
20 month.

21 But I look at the situation. I'm aware,
22 since I have been in the Henderson area for over 30
23 years, the neighborhood they come from, so just on a
24 personal experience, and it's kind of that respect.

25 Now, I'm not asking for documentation. You

1 talk to them and you know, it's just the feeling, like
2 I say, I typically grant it. But as far as any of the
3 fees that deal with the court, I have no discretion
4 over that.

5 Sometimes people ask if I can waive those. I
6 can't. But at least I have that with my office, and
7 like I said, I can only speak for my office. There's
8 17 other constables in the state. I don't know what
9 they do.

10 But like I said, I'm proud of the respect and
11 working with the community and try to simplify to make
12 sure that everyone I think should have access to the
13 justice system. So I do have that luxury of waiving
14 the fees. And I also have to look at it's never been
15 an issue, but understanding it being an enterprise
16 fund, user fees, you know, if it ever got to the point
17 that we were giving so many of them, I would have to
18 put forth a vetting system.

19 Right now it's certainly not an issue and we
20 grant them.

21 CHAIRPERSON BLAYLOCK: Thank you. We have
22 time for one more question. That being the case, thank
23 you all for appearing before us today. This
24 information has been very, very beneficial. Very
25 useful, and I want to thank all of you, and Mr. Thomas,

1 I'm not sure if you can hear me, but I want to thank
2 all of you.

3 I want to thank all of you for your service
4 to the citizens and to the State of Nevada. Because of
5 people like you, it makes this state one of the best
6 places to live and that's why I live here.

7 So thank you very much for your service. We
8 will reconvene at 10:45 for the next panel.

9 (Recess taken.)

10 * * * * *

11 ELECTED OFFICIALS PANEL

12 -o0o-

13 Dina Neal, Assemblywoman, District 7

Michele Fiore, Former Assemblywoman, District 4

14 Leisa Moseley, Founder, The Action Company

15 * * * * *

16 CHAIRPERSON BLAYLOCK: All right. Now I
17 would like to introduce the elected officials panel,
18 which two of the three panelists will be providing
19 testimony from Reno.

20 So we have Dina Neal, Assemblywoman from
21 District 7; Michele Fiore, former Assemblywoman from
22 District 4, and Lisa Moseley, Founder, The Action
23 Company, up in northern Nevada.

24 So I'm going to turn the floor over to Dina
25 Neal, Assemblywoman from District 7, for initial

1 comments.

2 MS. NEAL: Good morning, everybody. I'm
3 sorry, I'm definitely under the weather, so hopefully
4 my voice is coming through.

5 This is a personal issue for me because I've
6 actually had family members who have been affected.
7 And when I thought about this, I started studying and I
8 realized that August 10, 1964, Attorney General Robert
9 Kennedy had talked about bail reform and he actually
10 talked about in his comments impact upon the poor.

11 And he said that it's incalculable, the human
12 price that we pay, and it's an unnecessary price
13 because the burden of the -- always hits the poor, and
14 it hits the poor because of the inability to pay.

15 And the traffic fines and fees have hit poor
16 communities in such a way that more often than not they
17 find themselves incarcerated because of the failure to
18 be able to pay the fees and fines.

19 And a perfect example is my nephew, pretty
20 much from 2010 to about 2016, was arrested at least six
21 times and pulled over for failure to pay traffic fines.
22 And he is a candidate who always ended up with sporadic
23 employment and the inability to pay because his wages
24 were so low.

25 And so this issue is super important to me

1 because my sister had to basically get him out of jail
2 five times for failure to pay traffic tickets because
3 he was pulled over by the police.

4 My niece was pulled over three times for
5 traffic tickets and fines for failure to pay. And she
6 was a college student.

7 And so the fact that the U.S. Commission is
8 actually trying to take an active effort in
9 decriminalizing misdemeanor traffic citations is super,
10 super important because I've seen it in my own
11 household, my extended family, where we have seen the
12 collateral consequences of this behavior. And there's
13 a need to remedy it because it has a direct
14 relationship to folks losing employment, or lack
15 thereof, gaining employment.

16 Because of the incarceration they are having
17 to tell their employer about why they had to spend
18 three days in jail. And the family members who can't
19 afford that money, such as my sister who basically
20 makes like \$40,000 a year, having to each and every
21 step come up with almost sometimes \$300, \$500 just to
22 get my nephew out of jail repetitively.

23 So those -- that's why I came today and
24 that's why I wanted to speak on this issue, and I
25 appreciate your time.

1 Thank you.

2 CHAIRPERSON BLAYLOCK: Thank you. We'll stay
3 with northern Nevada. Lisa Moseley with The Action
4 Company.

5 MS. MOSELEY: Good morning. I am Lisa
6 Moseley of The Action Company, and just for the record,
7 The Action Company is a political consulting firm in
8 Las Vegas that specializes in female candidates.

9 I also have an advocacy arm and this
10 particular issue is one that I have worked on
11 extensively for years. As a matter of fact, I see
12 former Assemblywoman Michele Fiore down there. I
13 worked with Senator Kelvin Atkinson with her bill,
14 AB281, to try to introduce some legislation regarding a
15 grace period, which I will discuss later in my
16 presentation.

17 So this issue is close to my own heart. I
18 have personal experience with this, as well as close
19 family and friends who have also have experience with
20 municipal fines and fees.

21 This issue disproportionately affects black
22 and other minority communities, and women are
23 particularly affected by this issue.

24 We have mothers, oftentimes we are single
25 mothers, as myself is. I'm divorced, been divorced

1 going on eleven years. The impact, the financial
2 impact from the divorce has been fairly devastating and
3 oftentimes when a woman is going through a divorce, or
4 something like that, or just other financial issues,
5 having to -- being faced with the burden of paying high
6 traffic fines, and mine was simple things like expired
7 registration, which I'll also discuss later in my
8 presentation.

9 The fines and fees often associated with
10 those kinds of traffic violations can be three to four
11 times what the actual fine is, sending people into a
12 cycle of perpetual poverty, and it just gets worse and
13 worse.

14 People are taking three and four years to try
15 to pay down fines and fees, even before they get to the
16 actual violation itself.

17 So this issue, again, is very personal to me
18 and I am very excited that the Commission is holding
19 this hearing today and I want to say hello to
20 Assemblywoman Fiore down there because I know that she
21 has worked very hard for several years to try to
22 decriminalize minor penalties, minor traffic
23 violations, and I hope that we can move forward and
24 actually get some legislation on the books, hopefully
25 soon. Thank you.

1 CHAIRPERSON BLAYLOCK: Thank you. Now I'd
2 like to turn the floor over to Michele Fiore.

3 MS. FIORE: Thank you. Thank you guys for
4 having me here, and the bills that they are speaking
5 about, I've got to tell you that they call us in Carson
6 City The Gang of 63 because we have 42 State Assembly
7 members and 21 State Senators. And the reason why that
8 is so important is because both sessions, the 76th
9 Session, the 77th Session, I brought a bill forth and
10 the bottom line was to change the criminal infractions
11 to civil penalties, like 37 other states.

12 And out of 63 members in our upper and lower
13 houses, the first session, I think we had 61
14 co-sponsors, all legislators said yes, we are going to
15 pass this bill. And what do we do? As State
16 legislators, we passed that bill and then we get it in
17 the judiciary committee and we kill it.

18 Because the bottom line is our judiciary
19 system has to use incarceration for their collection
20 agency. And don't listen to me, don't trust me,
21 verify, okay? Do a Ronald Reagan, trust but verify.

22 When we had many of these conferences and
23 even our justice, Supreme Judge Hardesty said
24 unfortunately we are using our incarceration system as
25 a collection agency. It's on the record.

1 So this is something that has to be turned
2 around. And this is why I've worked with Mr. Ponder
3 with his second chance program. Many of my people that
4 walk with me are some of his folks, and they are great.

5 But here's what I find. If they have done a
6 crime and they get out, and they have this record, they
7 cannot rent an apartment. They cannot work. There's
8 some of -- like I used to be in the mental healthcare
9 industry.

10 If they have done specific crimes, they can't
11 work for me. They can't work around the elderly. They
12 can't work around the seniors.

13 So understand this legislation that I've
14 worked on for five years has to come back, and I do
15 believe our speaker, Jason Frierson, I believe that he
16 will be able to bring it back and get it passed.

17 When you have two sessions and 99 percent of
18 the legislators are working hard for this bill, for the
19 people, for their communities, all communities, this
20 has to go. And when I hear our judicial system say,
21 no, no, no, we don't want to do that because then we
22 can't arrest people to collect money, we have a problem
23 here in Nevada.

24 So I think we need to fix it. And I think we
25 need to fix it now. Because arresting my folks because

1 they can't afford to pay a parking ticket is just
2 inexcusable. That's what I'll say.

3 CHAIRPERSON BLAYLOCK: All right. Thank you.
4 I will open the floor up for questions from the
5 committee for our panelists.

6 MS. COSGROVE: Sondra Cosgrove, League of
7 Women Voters of Nevada, and we had talked about this in
8 the last session, that oftentimes people that you are
9 referring to have mental health issues.

10 MS. FIORE: Well, I'm not mental, and I get
11 tickets, so I think it applies to all of us.

12 MS. COSGROVE: But it ends up getting, if you
13 are talking about having the people that use the system
14 pay for the system, and so that the response would be
15 well, then don't use the system.

16 But when you are having a mental health
17 breakdown, and you are ill, I mean we wouldn't say to
18 someone that's having a diabetic incident should
19 automatically be put in jail. But that's oftentimes
20 what we do to people having a mental health problem.

21 I was following your bill last session. Was
22 there anything said about kind of the disparate impact
23 on criminalizing these fines and fees it has on the
24 mentally ill?

25 MS. FIORE: No. It wasn't discussed.

1 CHAIRPERSON BLAYLOCK: Are there any
2 questions from northern Nevada? No? Okay.

3 MS. KINDRED: I have a question for
4 Ms. Fiore.

5 So what would need to change this time? Are
6 you saying that Speaker Frierson is likely to bring
7 back the bill and likely to get it passed this time?
8 What would you recommend, suggest, to get it beyond
9 just passing within both houses?

10 Are you are saying that it got killed in
11 committee? So what needs to happen or what would you
12 suggest would need to change this time?

13 MS. FIORE: Our justice system needs to take
14 a "faith of leap," -- that they've got to -- basically,
15 it's kind of funny, but they have to basically change
16 our system.

17 What they are saying is that they don't have
18 a collectable computer software system in place to
19 collect the money, and if they don't collect the fines,
20 how are they going to pay for the jails and, you know,
21 how are they going to pay for people.

22 However, I just don't think incarceration
23 should be a revenue generator. And that's exactly
24 what's taking place in the State of Nevada.

25 I know it isn't popular. My words are not

1 popular, nor do they help me out, okay? But my words
2 are true, and I'm not going to defer from that.

3 So in order to get this passed we have to
4 have our legislators -- the bottom line, we're the
5 state legislators. We make the law and the judges have
6 to follow it.

7 I'm not a judge. I was a former legislator,
8 about to become your next City Councilwoman. So our
9 legislature has to grow a set of shoulders, pass the
10 legislation, and make it -- make our judicial system
11 implement it, and that's period.

12 These guys have to rein it in, get brave, and
13 do it. That's what they are doing. That's why they
14 are up there.

15 MS. KINDRED: Can I ask a follow-up?

16 CHAIRPERSON BLAYLOCK: Yes.

17 MS. NEAL: Can we address that question? I
18 would like to add to that -- so this is Assemblywoman
19 Dina Neal, District 7.

20 So I was involved in the 2015 session, and of
21 course the one before that. It is accurate, there was
22 a political undercurrent that was occurring in the
23 session. Whether or not it was personality-based or
24 not, the point is there were -- I had signed on to
25 Assemblywoman Fiore's bill.

1 We understood that it was an issue, but there
2 is an issue in terms of our system, actually our court
3 system is built around fees. There was for a long time
4 a sentiment that if you didn't have an ability to
5 replace, right, that stream of revenue, that there was
6 pushback in regards to if you take these fines and fees
7 away, they are pretty much paying salaries, paying the
8 administrative costs of running the courts, then what
9 else.

10 I mean so the issue of fines and fees is
11 relevant, and I think the scheme, the scheme around
12 that is trying to figure out what are the revenue
13 sources that need to be put in place in order to
14 replace that. Because we have -- we built the system
15 around those fees and so that has been some of the --
16 one of the foundational issues that has caused the
17 struggle and it's been super hard in regards to folks
18 trying to figure out, well, what do we do now in the
19 absence of that.

20 And then one other thing I wanted to add,
21 that was a potential solution, when I was looking at
22 the most common traffic violations was for expired,
23 suspended registration. Actually I had a bill and it's
24 in place that asked the DMV to basically set folks on a
25 payment plan because we were hitting folks who were

1 poor, who couldn't afford, number one, to either pay
2 the registration and they couldn't afford the fine,
3 which was roughly \$250, if they failed to pay it.

4 So when the DMV came in, they argued with me,
5 saying that this is a source of revenue because the
6 fees that the DMV gets is a part of the general fund
7 revenue, the GST. So I think if we're going to talk
8 about active solutions, there needs to be an active
9 campaign that tries to deal with, number one, the fines
10 and fees, what -- how do we shift the revenue sources,
11 how do we make sure that agencies are not super
12 dependent upon those fines and fees so that the
13 disparate impact of the policies, we can actually take
14 an active stance in remedying it.

15 Because we struggle constantly. They are
16 like oh, I know it hits the poor, but, and so I think
17 that's one of the more active ways. I haven't actually
18 seen a bill this particular session regarding this
19 issue. It should come up. I thought about carrying
20 it, but there were potentially -- Speaker Frierson
21 thought about it, too, but so far I haven't actually
22 seen a bill related to the subject for this particular
23 session. So I just wanted to bring that up.

24 MS. MOSELEY: I would like to speak to that
25 issue also. In fiscal year 2015 Las Vegas Municipal

1 Courts collected over \$2 million, I believe, in fines
2 and fees and also there were still outstanding fines
3 and fees of hundreds of thousands, if not millions of
4 dollars.

5 But what's happening is residents are being
6 cited, and they are not able to pay the fees, so the
7 fees go into warrant status.

8 Sometimes those residents get on a payment
9 plan and also there is a fee attached to that as well.
10 So to get on a payment plan, you have additional fees
11 that you have to pay.

12 But what happens with that payment plan,
13 there is no grace period in the State of Nevada. So if
14 a resident is on a payment plan and that payment is due
15 today, if they haven't made that payment by 12:00
16 midnight, they are automatically back in warrant status
17 and subject to hundreds of dollars of additional fees
18 on top of the fees, on top of the initial violation.

19 I think a simple solution initially, until we
20 find those other revenue streams, and work all of those
21 details out, I think a simple solution to start with
22 would be simply to put a grace period of at least seven
23 days in place.

24 Sometimes people are living paycheck to
25 paycheck. When you look at the demographics of the

1 folks that are being hit the hardest, they are in some
2 of the poorest zip codes in the City of Las Vegas.

3 Those particular zip codes have the highest rate of
4 unemployment, they have the highest rate of food
5 insecurity, which suggests that there is not an
6 unwillingness to pay these fines, but simply an
7 inability to pay these fines.

8 So instituting a simple grace period, and I
9 don't know if there's legislation that needs to happen
10 for that to happen, but instituting a simple seven-day
11 grace period, which would give people enough time to
12 possibly have a payday in between there, or come up
13 with these funds to pay this fine, would make it
14 easier.

15 It wouldn't affect the revenue generation.
16 It's not -- and people would still, may be able to pay
17 these fines. We possibly wouldn't have so much of this
18 money that is still outstanding. People would not be
19 subject to arrest. They would not be subject to
20 additional fines, if you would institute something as
21 simple as a seven-day grace period.

22 MS. NAVARRO: This is Theresa Navarro with
23 the Commission. I just want to clarify, I don't know
24 if you -- did you get this? Did you send it to them?

25 MS. MOSELEY: No.

1 MS. NAVARRO: Okay. Lisa gave us a copy of
2 the report that she did here.

3 MS. MOSELEY: I will send it to them.

4 MS. NAVARRO: Which is really important, if
5 you'll look at it, because I'm looking through this
6 report and I'm finding some of the questions that were
7 asked in the last session from the people from the
8 court system, and from the officers. Because in here
9 she has actually defined some of the zip codes that are
10 in here where the majority of the citations, and the
11 zip codes are all in the poverty zip code areas, and
12 they target mainly black and brown in this report that
13 she's done.

14 We have been trying to get data from, in the
15 last session from the justice system and from the
16 court, to find out the majority of, you know, of the
17 race --

18 MS. MOSELEY: I have that data.

19 MS. NAVARRO: We can't get it. They can't --
20 they can't get us that data.

21 MS. MOSELEY: I do have that data and I'll
22 say, I have to say thank you to former Review-Journal
23 reporter Jim DeHaven, who investigated this issue back
24 in 2015 extensively. So I reached out to him and he
25 sent me everything that he had.

1 I have a breakdown of the racial
2 demographics, the zip codes -- the highest, the zip
3 code numbers where these traffic fines are occurring,
4 the age, I have the actual violation of, I have the
5 outstanding warrants.

6 I have all of this data and I'm very grateful
7 to him. I incorporated some of that data in this
8 report and I will e-mail a copy of it to Anna so that
9 you all can have it.

10 MS. NEAL: And just to add -- Assemblywoman
11 Dina Neal, District 7, for the record, on Monday I'm
12 supposed to be receiving -- I had talked to Justice
13 Hardesty and I'm supposed to be receiving some updated
14 information from last year breaking down who is in jail
15 based on misdemeanor to felony. Because I have bills
16 that are focused around pretrial release and bail
17 reform, and so I was trying to get an idea of how many
18 folks were actually in jail on misdemeanors versus
19 felonies. And he's supposed to give that information
20 to me on Monday.

21 So that was probably -- I'm hoping it is the
22 most current because I know that there was a citation
23 of information last year, but I would be willing to
24 share that as well.

25 MS. NAVARRO: That would be great to share

1 with the committee. This is so important for the
2 committee to see what I'm looking at.

3 You know, gosh --

4 MS. MOSELEY: This is Lisa Moseley. While
5 you are thinking about that, I'll just say that the
6 data that James provided for me comes from the actual
7 jails. It comes from the City of Las Vegas. So we
8 obtained this data through public funds -- what do you
9 call it -- public information act, requested through
10 the public information act.

11 So as far as I know, it's pretty current, at
12 least up to 2015.

13 MS. NAVARRO: So just so you know, Dexter
14 Thomas from the Washoe County up here in the north, he
15 did speak and did say that they do not -- we don't
16 charge fees in Washoe County. We don't charge fees for
17 warrants.

18 The warrant is waived and they try to keep --
19 that's in the north. It's different in the south. So
20 just making that point.

21 MS. MOSELEY: So this is Lisa Moseley again.
22 Theresa mentioned fees that are waived here in Washoe,
23 the data that I have shows how many, how much in
24 warrant fees in Clark County have been waived and I
25 will say it is very, very low. Clark County is not in

1 the business of waiving fees. They want it all.

2 CHAIRPERSON BLAYLOCK: Thank you. I believe,
3 Kay, you have a question.

4 MS. KINDRED: That was very helpful, thank
5 you. Kay Kindred, a member of the Commission. Because
6 my follow-up question was to ask specifically what kind
7 of affirmative acts could the legislature or others
8 engage in that would help to facilitate a different
9 result, so thank you very much. That answered my
10 question.

11 MS. JENKINS: And to add on to Kay's
12 question, this is Kara Jenkins, a member of the
13 committee. For all those who have spoken who are
14 panelists right now, could you give us your insights
15 and perspectives on community policing? And if you
16 think that mitigates the impact of getting these fines
17 and fees.

18 MS. FIORE: Yea, so I'll start. So in our
19 different communities, it's not so much our community
20 police. Most of these fines are coming from parking,
21 from driving, interstate highway patrols. We have
22 insurance lobbyists up there that now all of a sudden
23 lobby that, let's say you are late with your car
24 insurance. Let's say we don't have enough money and
25 we're paying the car insurance monthly and we don't pay

1 that car insurance.

2 All of a sudden your registration will get
3 suspended, or you've got to pay a \$250 fine to
4 reregister if you didn't have proof of insurance. I
5 mean it goes beyond.

6 So unfortunately we have to take
7 responsibility as legislators that have let this go far
8 and beyond. So it's more about the traffic citations.
9 The community policing, you know, our community
10 policing, we need to give our police more tools to be
11 able to police more in our communities.

12 But the majority of all of these criminal
13 infractions that should be civil penalties come from
14 traffic, and that's not in our community police.

15 MS. NEAL: So this is Assemblywoman Dina
16 Neal, District 7, for the record. I've actually been
17 involved with the African-American sheriff's advisory
18 group, which has been a part of community policing. It
19 was created, I think, roughly two years ago. So you
20 know, there's a multi-cultural group.

21 But it's been one of the most -- there's a
22 need there in order to, number one, put members on that
23 committee who, number one, can stay there all the time,
24 actually ask really good questions to the sheriff.
25 Because it's a constant, it's a constant check-in in

1 regards to community policing.

2 Like you might have one area command, Bolden
3 Area, who is doing more and over and above what is
4 community policing, and then when you get into another
5 area command, it might be slightly different.

6 I know for a fact that there is still an
7 issue of profiling that is still happening. 89115,
8 which is the data that, if you guys receive it, that
9 Lisa Moseley presented, is the east side of my
10 district, which is largely poor, largely Latino, and
11 there's been -- I've heard constantly that the police
12 show up only for the instances where, I guess, high
13 crime, but not for the instances of actually building
14 relationships with those community members.

15 So I think in regards to certain communities
16 there is a need to continue active conversations about
17 what are the day-to-day occurrences. We still have
18 members who don't cite the day-to-day occurrences. I
19 get calls and then I have to call the captain of a
20 particular area command and say well, supposedly you
21 have pulled over this person like four times. They
22 haven't been -- they may have been cited, but they
23 haven't been, but they are concerned because you keep
24 pulling them over and it's the same car, it's the same
25 young African-American.

1 Or I think that what needs to happen is
2 making sure you have good members on those committees.
3 Making sure you actually promote engagement of those
4 community members, because more often than not, things
5 happen and folks don't say anything.

6 They never say anything. Because they don't
7 know what to do and they don't feel that it's actually
8 going to be a valued statement, and I think that if
9 this commission is going to do anything affirmative,
10 connect with those, the Sheriff's Advisory Group for
11 African-Americans, and the multi-cultural group,
12 because those two groups supposedly are responsible for
13 building those community relationships and having that
14 dialogue and bringing it to the table.

15 If folks don't bring it to the table, they
16 can't bring it to the sheriff.

17 CHAIRPERSON BLAYLOCK: Thank you. Here in
18 Southern Nevada? Do you have additional questions for
19 the committee? For the panelists?

20 So I have a question for the panelists. The
21 U.S. Commission provides recommendations to the
22 Congress and to the President. So what are your
23 suggestions for the U.S. Commission on Civil Rights to
24 provide to our Congressional leaders and to the
25 President concerning municipal fines and fees?

1 MS. FIORE: I would absolutely double-down on
2 my bill, making Nevada changing their criminal
3 infractions to civil penalties on our traffic laws.

4 The bill is written. We don't have to
5 reinvent the wheel. We don't have to go and suggest
6 new stuff. We've done it for two sessions.

7 We have the full Assembly and State Senate
8 behind this piece of legislation that I wrote back in
9 2013 that we pulled up on the last two sessions.

10 So I think we take that bill, and we urge our
11 Congressional members and our great president, Donald
12 Trump. To these state legislators to get off their
13 tookus and pass the bill and make the courts compliant.
14 That's what I think.

15 CHAIRPERSON BLAYLOCK: Just one moment, so
16 just so I'm clear. Your suggestion is to use the
17 Nevada bill as a guide?

18 MS. FIORE: Yes.

19 CHAIRPERSON BLAYLOCK: For the entire nation;
20 is that correct?

21 MS. FIORE: Yes. 37 people are doing it
22 already. 37 states are doing it.

23 CHAIRPERSON BLAYLOCK: So our bill mirrors
24 what they are doing in the other states?

25 MS. FIORE: Yes. We just have to get up to

1 speed. We're a little behind.

2 MR. FOTT: Can I follow up? David Fott of
3 the Committee. When you say "nudge," would you be more
4 specific?

5 MS. FIORE: Yeah, I'll be very specific. We
6 need our congressional members: Ruben Kihuen, Mark
7 Amodei; the U.S. Senators: Dean Heller, and we need
8 them to call the State Senators and the State Assembly
9 people and say look, we agree with the bill. Get it
10 passed. Pass it. Implement it, and we'll push it up
11 here too.

12 Nudging means being aggressive. So I'm a
13 Nevadan here for 25 years, but I'm originally from
14 Brooklyn. So I got that Brooklyn nudging let's
15 git-'er-done yesterday type of attitude. And that's
16 what we need.

17 We need to stop with the complacency. Oh,
18 we'll deal with it next session. Oh, no. Deal with it
19 right now and git 'er done. That's nudging, from
20 Brooklyn.

21 CHAIRPERSON BLAYLOCK: So in northern Nevada?
22 Yes.

23 MS. MOSELEY: This is Lisa Moseley. I think
24 there are certainly things that we can take back to our
25 Congressmen and women. Number one, I think looking at

1 states, there are municipalities who are using this
2 system to generate revenue across the state.

3 It's happening more and more. We are
4 creating debtors prisons. Debtors prisons, even though
5 federally it's illegal, but it is happening.

6 So I think the first thing we could do is
7 begin to look at those states that are using these
8 types of fines in the system to generate revenue, and
9 perhaps look at how federally those states where they
10 need revenue, what we can do to get them revenue, how
11 we can prevent them from using this particular system
12 to generate revenue.

13 I think de-criminalizing these minor traffic
14 offenses, and in my presentation I highlight the top,
15 the most common traffic offenses, and as Ms. Fiore
16 said, there are things like driving on a suspended
17 license, driving with no driver's license, no proof of
18 insurance, or a suspended registration.

19 Making de-criminalizing those particular
20 offenses and making them civil versus criminal, I think
21 would go a very long way. If we could do that at the
22 Federal level, I think that would be great.

23 MS. NEAL: This is Assemblywoman Dina Neal,
24 District 7, for the record.

25 If you are going to bring something to

1 Department of Justice, what I will be trying to do is
2 bring back up, number one, Attorney General Loretta
3 Lynch's letter. She had remarks December 3, 2015, she
4 talked about fines and fees imposed for traffic
5 violations, there was a fact sheet created about the
6 cycle of poverty on December 2, 2015, January 13 --
7 actually, November 7, 2016, the U.S. Department of
8 Justice also had a case: Stinnie versus Holcomb, where
9 they dealt with non-moving traffic violations.

10 I think you already have enough information.
11 What you need to do is just bring it back. You need to
12 bring back what Lynch brought, what Lynch researched,
13 what Eric Holder already focused on, and then put it
14 back on the agenda of DOJ under Sessions and say the
15 research has already been done, the proof is already
16 there.

17 The state of Hawaii actually finished, they
18 did their own state report around this in 2016. I can
19 forward that. There are already activities that have
20 happened within the past year that you could bring
21 forward and just put it back on the table at DOJ.
22 Nobody is really clear about the direction of the
23 Department of Justice and where they are going right
24 now under Sessions and so the fact that the past
25 Attorney Generals Lynch and Holder focused on poverty,

1 focused on the fines and fees, non-moving violations,
2 this is a matter of making sure that that information,
3 number one, is not lost and that it is an active effort
4 pushed upon the DOJ currently. Those are my
5 suggestions.

6 MS. FIORE: Can I say something? So you want
7 to know what I find really telling, is when we have
8 Sesame Street -- okay, and I testified to this, in
9 both, both these issues -- we have Sesame Street
10 subliminally programming our children that it's okay if
11 your daddy or mommy is in jail.

12 We literally have a character on Sesame
13 Street -- and I'll send you video because I e-mailed
14 blasted it out last session -- we literally have a
15 little boy on Sesame Street and they are all sitting
16 around, and I think with Big Bird, or whoever the
17 characters are, and they are like yeah, well, my daddy
18 is in prison. And then this person goes well, you
19 know, if he broke the law, that blah, blah. I mean who
20 does that?

21 I watched Sesame Street and Mr. Rogers
22 growing up, and we never talked about my mom or dad
23 being in jail.

24 CHAIRPERSON BLAYLOCK: I'm sorry to interrupt
25 you, but just so I'm on the same page, is that related

1 to municipal fines and fees?

2 MS. FIORE: Yes.

3 CHAIRPERSON BLAYLOCK: Because the hearing
4 here today is for municipal fines and fees, and not
5 what is occurring on Sesame Street or why.

6 MS. FIORE: I don't think you got my point,
7 Wendell. You must have missed my point. Let me
8 connect it for you.

9 Here's the problem. It's making it okay for
10 our children in our -- in our little district and in
11 our neighborhoods that your parent is in jail. That is
12 directly connected to our fines and fees because if you
13 don't pay them, there's a warrant out for your arrest.

14 If you can't pay a speeding ticket, a parking
15 ticket, then they'll boot your car. Then they'll tow
16 your car. Then there's a warrant out for your arrest
17 and you get to jail.

18 It's literally, it's all related and it also
19 starts from that ticket that we couldn't pay because
20 our criminal infractions aren't civil penalties. Do
21 you understand now?

22 CHAIRPERSON BLAYLOCK: All right. Thank you.

23 MS. FIORE: You're welcome.

24 MS. BERGQUIST: I have a question. So this
25 is Kathleen Bergquist. My question is, and I really

1 appreciate Lisa, the report that you compiled, okay?
2 So because I had asked the question to the previous
3 panel, is there any data based on zip code based on the
4 fact that our municipalities are highly segregated, so
5 -- and you provided that information and I appreciate
6 that.

7 One of the things we heard from the last
8 panel is that they have difficulty collecting
9 demographic information from folks because it's just
10 difficult when you are out in the field. So my
11 question for the panel, because while zip codes are
12 helpful, they are not complete data.

13 So my question for the panel is do you guys
14 have any recommendations of how we could change our
15 system so that we actually have data we could use
16 that's a little more concrete to measure disparate
17 impacts because zip codes can only tell you so much
18 information and I don't think our law enforcement panel
19 had an answer, so I'm just wondering if you guys have
20 suggestions.

21 MS. NAVARRO: This is Theresa Navarro from
22 the north on the Commission.

23 You know, I'm trying to find out if other
24 states, if there are any other states anywhere that has
25 done a specific data for the demographics on fees and

1 fines, and is it something that the Commission could
2 look at and maybe look at doing something for Nevada.
3 Because I know we get a lot of information from
4 different commissions from different states.

5 MS. NEAL: The only thing -- this is
6 Assemblywoman Dina Neal, for the record.

7 The only thing that I have seen that would
8 even be close to having some kind of data nationally,
9 the National Conference of State Legislators has
10 actually been working and collecting information around
11 traffic fees and fines. I'll have to forward that
12 document and see if that has any value.

13 But the second thing, I think, answering the
14 question brought up down south, there might be a
15 vehicle, there was a profiling bill that was brought
16 out in the early '90s. There, I think there would be a
17 way there, number one, to add, start adding a data
18 requirement there.

19 You could also potentially add a data
20 requirement to a current existing bill that we had,
21 maybe talk to Senator Ford, he has a body cam bill
22 which there was a huge discussion around the data
23 collection piece there, and it would be germane to add
24 a data collection piece around traffic fines and fees,
25 being that the officers, it's going to mandate that

1 they wear the body cams all the time.

2 So it could be -- it's side information, but
3 it's information that could be collected. Also, I
4 believe that I could probably add it into a current
5 bill that I have. I have a DMV bill, because I'm
6 dealing with suspended licenses for failure to pay
7 child support, and I actually was able to collect data
8 by demographics on whose license had been suspended,
9 and I just put in the request through the DMV and I got
10 the number of folks whose license had been suspended
11 over five years.

12 But that also, because I'm already collecting
13 data and it's related to driver licenses and some other
14 things, that could be a potential vehicle that I could
15 add a couple of sentences into that bill to make sure
16 that we are collecting that data for actual traffic
17 violations, and I have to go back and look at what the
18 advisory commission on justice and in the interim
19 discussed as one of their bills, because this is where
20 this traffic bill had come from. And so I know there
21 was a lot of discussion from 2013 to 2015 regarding the
22 moving traffic violations and the Advisory Commission
23 on Justice, which is the interim legislative committee,
24 potentially had already fashioned a draft.

25 But I'm willing to take a stab at it and at

1 least ask Senator Ford, and I know potentially could go
2 into my other bill draft that I haven't even had a
3 hearing on yet, but I will, to start collecting that
4 data.

5 MS. NAVARRO: Okay. So let me just respond
6 to that that you just said. The problem with putting
7 it even on your bill and everything is on the past
8 panel that was here, they were talking about data and
9 they were talking and saying that they got like 45
10 percent of the data that they receive, it was equal, as
11 far as racial concerns, and I doubt they were all
12 equal, okay?

13 They were saying that 55 percent of them they
14 didn't know the race or anything. So they couldn't
15 make the data on that.

16 So they have no data at all. To provide,
17 even if you were putting it in a legislative bill, you
18 know, I don't know how they would do that.

19 MS. NEAL: Well, it -- this is Assemblywoman
20 Neal, for the record.

21 Basically you would mandate that they collect
22 data. I know that in the profiling bill I thought that
23 there was some data collection because the whole point
24 of the bill was to prove disparate impact on profiling
25 and pulling people over and citing people based on

1 race.

2 So, you know, data is always one of these
3 fallback things that the Legislature were to say oh, we
4 have to collect this. Oh, it's super hard.

5 But at the end of the day, the Legislature
6 makes law, and if you mandate that this is what it's
7 going to be, that's the activity that you are going to
8 do. So the cost-prohibitive factor that has been a
9 constant argument, I think, can, number one, be
10 outweighed by the fact that we have proof nationally
11 that there's been a disparate impact in traffic
12 violations, and that we also have some foundational
13 pieces.

14 So I'm not really worried about that because
15 everybody always says it costs. But we also just
16 passed More Cops; right? And because we passed More
17 Cops with a half percent sales tax increase, we can
18 figure out how to get that money.

19 The point is the money can be siphoned off in
20 some kind of way. We also have a general fund account
21 specific to training for POST officers, mostly peace
22 officers to have POST certification, there's a general
23 fund account set up that is totally for training.

24 So if they say there's a lack of training, we
25 can tag them there, we can tag them in the fact that

1 there's mandated training for the first 18 months that
2 the officer is supposed to be participating, and it's
3 the multi-cultural component of training trying to deal
4 with communities of color.

5 So there's a couple vehicles in order to
6 insert information again.

7 MS. MOSELEY: This is Lisa Moseley. I'll
8 offer a very brief comment and something I think is
9 fairly simple. I listened to a corrections department
10 official in a hearing most recently talking about some
11 of the data that they actually do not collect in the
12 Nevada Department of Corrections.

13 His reason for not collecting that data is
14 they had outdated systems that did not allow them to
15 input that data, and one of the things that he was
16 looking to do was to get revenue to update the systems
17 and I think that making sure our officers in our
18 departments have the data -- I'm sorry, not the data,
19 the systems, the mechanisms in place, so if the state
20 legislature does mandate that they collect this data,
21 we don't get any pushback from them saying well, we
22 have outdated systems, we don't have the systems to do
23 that.

24 But making sure that all of those mechanisms
25 for collecting this kind of data are in place and I

1 think that's something very simple.

2 CHAIRPERSON BLAYLOCK: Thank you. We have
3 time for one more question.

4 MS. COSGROVE: I would like to ask, this is
5 Sondra Cosgrove from the League of Women Voters and the
6 issue about data and the systems came up in the last
7 panel. I'm also a history professor and I think every
8 state agency needs to have a records management policy
9 that gets a lot of input from lots of different people
10 so they know exactly what data needs to be gathered,
11 what data needs to be saved, but then also what data
12 needs to be transferred when you go from an older
13 system to a new system.

14 Because we heard in the last panel that when
15 we went from a legacy system to a new system they
16 scrubbed data. They lost data. And in any archives
17 can give you information on how to do a records
18 management policy, but it clearly will state out what
19 data you gather, what data you save, and what data has
20 to be transferred. So that, I think that would need to
21 be part of -- if there's any type of legislation that
22 gives a mandate, that needs to be part of it. That's
23 probably a statement, not a question, I'm sorry.

24 CHAIRPERSON BLAYLOCK: So we do have time for
25 one more question for the panelists.

1 Hearing none, I would like to thank our
2 panelists for joining us today, and the information
3 provided has been very, very helpful, and thank you
4 very much for your service to the State of Nevada as
5 well. So thank you.

6 We will reconvene at 1:15 with the -- I'm
7 sorry, policy experts.

8 (Recess taken.)

9 CHAIRPERSON BLAYLOCK: Good afternoon and
10 thank you for joining us, and can you hear us in
11 northern Nevada?

12 MS. NAVARRO: Yes.

13 CHAIRPERSON BLAYLOCK: Awesome. Great. So
14 we'll continue now with our agenda regarding the policy
15 experts panel.

16 * * * * *

17 POLICY EXPERTS PANEL

18 -o0o-

19 Egan Walker, Justice,

 Second Judicial District Court

20 Dr. Nancy E. Brune, Executive Director

 Megan Rauch

21 Kenny Guinn Center for Policy Priorities

 Nicole Austin-Hillery, Director and Counsel

22 Brennan Center for Justice at New York University

 Thomas Harvey, Executive Director

23 ArchCity Defenders

24 * * * * *

25 CHAIRPERSON BLAYLOCK: But before we begin, I

1 would just like to remind you all that I will be
2 holding up time cards just to make sure that we stay on
3 time.

4 Each of you have between 12 and 14 minutes to
5 present your information and then the committee will
6 ask questions afterwards.

7 And today we are joined in northern Nevada by
8 Egan Walker, Justice, Second Judicial District, Board
9 Member, National Council of Juvenile and Family and
10 Court Judges; by Dr. E. Brune, Executive Director of
11 the Kenny Guinn Center for Policy Priorities; and
12 joined by Megan Rauch, Director of Education Policy.

13 Also with us here in Las Vegas is Nicole
14 Austin-Hillery, Director and Counsel, Brennan Center
15 for Justice at New York University; and Thomas Harvey,
16 Executive Director, ArchCity Defenders.

17 Thank you for joining us and we'd like to
18 start this afternoon's panel with Dr. Nancy Brune and
19 Megan Rauch.

20 MS. BRUNE: Thank you for inviting us and
21 having us be here today. We're very excited about this
22 topic and glad that you are looking at this issue.

23 So I'm going to turn it over to Megan Rauch,
24 who will be going through the presentation that we
25 prepared.

1 MS. RAUCH: Okay. So this issue was brought
2 to our attention after we read the study from the
3 Juvenile Law Center and the story from the New York
4 Times that accompanied it about how fees and fines push
5 kids deeper into the justice system and can push
6 families deeper into poverty and so we -- our research
7 focuses on how that has affected Nevada and the
8 Intermountain West, so we will be sharing that with you
9 today.

10 So the state imposes costs, fines, fees and
11 restitution on criminal justice on both adults and
12 children. This can have an impact on families and very
13 little information -- and we'll talk about this more in
14 depth in a few minutes -- is consistently reported that
15 can help us evaluate the impact of fees and fines here
16 in our state.

17 So juveniles in Nevada are forced to pay up
18 to six of eight fines and/or fees when they are going
19 through the juvenile justice court system. Three of
20 those fees and fines are mandatory. Those are the cost
21 of care, so what it costs to house the juvenile as they
22 are awaiting trial in the justice system; fines and
23 restitution, which is repayment to the families or
24 victims of crimes.

25 And one thing that we pulled out of the

1 Juvenile Law Center that we thought was a particularly
2 important thing for Nevada is that 76 percent of
3 families have reported that they are unable to repay
4 those restitution fines, and when that happens,
5 families' debt increases, the number of court
6 appearances for the offender increases, and then
7 there's the potential for the individual to lose his or
8 her driver's license.

9 And so we thought that here in Nevada, a
10 state that has a particularly high poverty rate, that
11 has a very high -- here in Clark County, for example,
12 it's majority minority. And so we thought it was
13 particularly alarming that we were finding that
14 families and juveniles in our city and in our state are
15 struggling with being able to pay these court fines and
16 fees.

17 In addition to the three mandatory ones,
18 there is also three that can be -- three fines or fees
19 that can be imposed by judicial determination, which is
20 court fees, diversion costs, and evaluation costs.

21 Diversion costs, the Juvenile Law Center
22 study found, was -- that court diversion is, or
23 diversion programs are effective in keeping children
24 from recidivism, or getting prosecuted for further
25 crimes.

1 But we found that diversion, the costs of
2 diversion can have a negative effect on a family who is
3 unable to pay for that.

4 Okay. So we thought that this particular
5 finding, which is from 2003, the judicial branch
6 funding resources and operations, we thought that was
7 particularly alarming because it illustrates how
8 municipal court fines and fees are a big source of
9 being able to --

10 MS. BRUNE: Oh, yeah, so interestingly the
11 date for this slide is 2003, and it has not been
12 updated. So I know this was talked about earlier this
13 morning, but we just are not collecting the data to, in
14 fact, determine what the impacts of the fines and fees
15 are, and this slide just illustrates how dependent the
16 different types of courts are on the different types of
17 fees.

18 So you'll see that, for example, the
19 municipal court, 71 percent of all their revenue comes
20 from fines, whereas 100 percent of all the
21 administrative assessments, which are required, fund
22 the municipal courts.

23 So I think, you know, when we're talking
24 about different revenue streams it's good to look at
25 how the different courts are dependent on the different

1 types of fines and fees here in the State of Nevada.
2 Again, the qualifier is that this is 13, 14 years old,
3 and so we should definitely think about a
4 recommendation to update this data.

5 I think once we start collecting the data we
6 can better determine what the exact impacts of these
7 fines and fees are on certain subgroups in Nevada.

8 MS. RAUCH: Currently there are two Nevada
9 Revised Statutes that address the issue of court fines
10 and fees in Nevada. They are both NRS 176.

11 Section 59 talks about how fees are typically
12 reduced from about 60 to 75 percent from a person who
13 is suffering from a mental illness, is found in the
14 court to be suffering from a mental illness. However,
15 if we are talking about a person who is homeless or
16 about a person who is on a very fixed income, unable to
17 work, due to the fact that they are suffering from this
18 condition, even the ability to repay 30 percent of that
19 fine, if it's \$150, is still a very difficult thing for
20 them to undertake.

21 Then in section 64 of NRS 176 also talks
22 about there is -- there can be imposed on certain
23 individuals a collection fee, if you are unable to pay
24 the fines that you owe to the court, which seems sort
25 of backwards, perhaps, if you think about it. Because

113

1 you are unable to pay the fines, we're going to charge
2 you more, and potentially the person could lose his or
3 her driver's license. Which again, if you lose your
4 driver's license and you can't go to work, you can't
5 get the money to repay the fines and fees.

6 We spoke with HELP of Southern Nevada, which
7 is an organization that works with people who are
8 involved in the justice system and helps them figure
9 out plans to repay or work off the debts that they owe,
10 and what they told us is people usually prefer to pay
11 the fines instead of doing, performing community
12 service, and that's simply because it's about ten
13 dollars of the fine equals one hour of community
14 service and so what that means is if you owe \$100,
15 that's ten additional hours that you are required to
16 perform community service.

17 And they said the most common offenders they
18 work with are people who have been charged or convicted
19 of a domestic violence offense and that here in Nevada
20 carries a mandatory 48 hours of community service, plus
21 a \$350 fine, or an additional 35 hours of community
22 service, which that really adds up and can be
23 detrimental to the family and the community, if that
24 individual is unable to pay.

25 Next slide, please.

1 So we have a few more recent data points that
2 speak to the issue of how courts in the state and in
3 the City of Las Vegas, North Las Vegas are dealing with
4 municipal fines and fees.

5 In North Las Vegas in 2014 the courts
6 processed 24,175 citations that equalled \$10.7 million
7 in fines, fees, and assessments. \$13.2 million were
8 originally imposed, which equals about \$442.00
9 collected per citation, which if you look at the
10 demographics of North Las Vegas, there is a very high
11 poverty rate, a very high rate of people living in low
12 income communities and people of color.

13 So again, asking them to even pay \$442.00 is
14 not feasible for a lot of offenders and their families.

15 Similarly, Las Vegas Municipal Court
16 collected \$67 million between 2011, 2013 from just low
17 level traffic or non-moving violations. So that's not
18 even someone who has caused harm to another individual,
19 or possibly they have, but it's just driving around,
20 and that can really be very disruptive to the family or
21 to the individual who is charged with those violations,
22 if he or she is unable to repay them.

23 HELP of Southern Nevada echoed this. They
24 said that traffic fines can add up quickly and ten
25 dollars equals one hour of community service, so you

1 are going to community service groups that also can be
2 a huge logistical headache and nightmare, and again,
3 speaking to Nancy's previous point, there is a lack of
4 common and consistent data reporting.

5 So one thing, I don't know if this came up
6 earlier today, but the Juvenile Justice Task Force here
7 in Nevada that was commissioned with Kathleen Sandoval,
8 they are developing a common risk assessment tool
9 that's being used for assessing people who are brought
10 into the justice system.

11 So we would suggest that perhaps creating a
12 similar common way to measure what's happening in the
13 court system after that individual is moving through
14 the system, to make sure that they are being consistent
15 and fair with the fines and fees.

16 Next slide.

17 So Nevada's juvenile justice system, this is
18 comparing Nevada with the -- our neighboring states in
19 the Intermountain west. So we charge, or the state
20 courts can impose six of eight possible fines, again,
21 like we talked about earlier. Three of those are
22 mandatory and three of those are by judicial
23 determination.

24 There are only nine states in the US that can
25 impose up to six fines, and there's six states that

1 impose seven, which means that 16 out of 50 states are
2 imposing large numbers of fines. There are no states
3 that charge all eight.

4 Here in the Intermountain west we also see
5 that Arizona has six possible fines or fees that can be
6 imposed. The one that is different is the cost of
7 probation.

8 Next slide.

9 So of the mandatory fees in the Intermountain
10 west, it's most common, or the maximum number of
11 mandatory fees is three. We see that New Mexico does
12 not have any mandatory fees for juvenile offenders.
13 But Nevada, Arizona, and Colorado all do have at least
14 three, which can lead to -- next slide.

15 It can have very detrimental impacts, your
16 individual cases can remain open longer, the youth can
17 end up incarcerated, if it's a juvenile offender, you
18 can end up staying in your incarceration placement
19 longer because your family is unable to pay, it can
20 lead to increased court visits, which leads to missed
21 school or work. There is the inability to get records
22 expunged, there's a civil judgment imposed and/or a
23 formal petition filed for failure to pay diversion
24 costs.

25 Some other things that the Juvenile Law

1 Center study found was that being caught up in the
2 justice system and the inability to repay the fines can
3 lead to eviction from public housing, registration of a
4 juvenile as a sex offender, loss of a driver's license,
5 disqualification from employment and a record of
6 violent and/or sex offenses being reported to your
7 school.

8 And so we have a series of recommendations on
9 the next slide. So we would require -- we would
10 recommend requiring annual reporting on judicial branch
11 funding. Like we talked about the last time that this
12 happened I was in middle school, and so we think that
13 an update is necessary.

14 Require local jurisdictions to report the
15 information so that we can again track common, what's
16 happening in our court systems, collect information on
17 the frequency that community service was used in lieu
18 of fines and the impact of judicial determination and
19 assess how the fines, fees and assessments in Nevada
20 compare to the Intermountain west.

21 We saw there are a couple of bills going up
22 in the legislature right now that we think will be
23 helpful in improving the system here in Nevada. So the
24 first one is obviously that common risk assessment
25 tool. So making sure that we're, at least in the

1 initial stages, treating all of the offenders that come
2 into the system equally.

3 And then there's AB128, which will reduce the
4 mandatory, or gives the court the option to reduce
5 mandatory minimums for juvenile incarceration by up to
6 35 percent, and then AB180 which creates the Juvenile
7 Justice Bill of Rights, which will give young people in
8 the state a fair and more equal voice when they are
9 being moved through the juvenile justice system.

10 CHAIRPERSON BLAYLOCK: Thank you. Our next
11 presenter will be Egan Walker, joining us live via
12 teleconference from Reno.

13 MR. WALKER: (No audio sound.)

14 CHAIRPERSON BLAYLOCK: We cannot hear you. I
15 think you are on mute.

16 MR. WALKER: I apologize. It helps if I turn
17 the mic on. I apologize.

18 So I bring greetings from the National
19 Council of Juvenile and Family Court Judges. My name
20 is Egan Walker. I am a board member on the Council.
21 I'm joined by Joey Orduna Hastings, who is the chief
22 executive officer of the National Council.

23 Joey is my boss, as a consequence on -- just,
24 -- just in the world. And you will see, if you turn to
25 the next, the text slide I think that is up in front of

1 you -- actually, if you go back one slide. I
2 apologize.

3 The National Council's position is exactly in
4 keeping with and in lockstep with the presentation you
5 were just given, really, as out of the Juvenile Law
6 Center. The National Council's position is that the
7 kinds of fines, fees, and assessments imposed on
8 children and families across the United States and in
9 the State of Nevada, as all detailed in more factual
10 detail in a moment, really have counterintuitive and
11 counterproductive results for the human beings that are
12 entrapped, if you will, in the court system.

13 Next slide, if you would, please, the graphic
14 that shows the United States.

15 So the six categories of fines, fees, and
16 assessments that can be imposed in juvenile justice you
17 just heard about through the juvenile justice -- or the
18 Juvenile Law Center, excuse me. And you have in front
19 of you a graphic that kind of shows the distribution of
20 how fees are imposed in states across the United
21 States, and that's a graphic. That's the kind of
22 graphic that I always shudder a little bit about as a
23 citizen of the State of Nevada and a judge working in
24 Nevada because it just demonstrates what ends up being
25 a very punitive system of financial imposition on

1 children and families.

2 So I want to focus from the national
3 perspective as a board member of the National Council
4 to a more local perspective as a District Court judge
5 in Washoe County.

6 In Washoe County I'm currently responsible
7 for all the kids in foster care. I call those juvenile
8 dependency cases, and all the kids who are in the
9 juvenile justice or the child delinquency system, I
10 call those juvenile delinquency cases.

11 There are about a thousand kids in foster
12 care in Washoe County right now. There are about
13 400-odd kids on probation in Washoe County right now.
14 So it's a big population of children and families.

15 There are multiple statutes that impose, if
16 you will, fines, fees and assessments on families. But
17 the ones I want to focus on right now for the purposes
18 of my illustrative comments are costs of care.

19 So if your child commits a delinquent act,
20 and is adjudicated a delinquent ward, you as a parent
21 or even a stepparent can be required to pay what are
22 called "costs of care."

23 Costs of care are literally supposed to be
24 the costs to the State, County and any other
25 governmental agency for providing the detention service

1 to your child. In Washoe County if your child ends up
2 in detention at Jan Evans, the costs of care that can
3 be assessed against you as a parent are \$30.00 a day.

4 That's a fairly arbitrary figure. It's
5 pretty consistent across the western United States.

6 For example, California imposes a similar daily rate
7 cost of care, 30 bucks a day.

8 That's, you know, 900 bucks a month to
9 families that can be imposed because your child has
10 been accused of committing a delinquent act.

11 If your child is pushed farther into the
12 juvenile justice system, so we have a more localized
13 camp we use in northern Nevada called China Spring
14 Aurora Pines. A rough analogy is it's Spring Mountain
15 in Clark County.

16 If your child is pushed into sort of the
17 deeper end of the juvenile justice, juvenile
18 delinquency justice system, the costs of care can
19 approach up to \$100 a day. If your child is placed
20 with the state through DCFS, it's at least \$100 a day,
21 and the range of costs of care costs and how they are
22 calculated is very arbitrary. It's not consistent
23 within the state or across states, and it has more to
24 do with circumstance and history than anything else.

25 But those costs of care can be substantial.

1 In addition, you can be required to pay for the costs
2 of providing an attorney to your child. So if a family
3 can't afford to hire an attorney for their child who is
4 detained at Jan Evans, I or the court master who works
5 with me will appoint an attorney to represent that
6 child, and the parents can be required to pay for the
7 costs of that attorney, in addition to the costs of
8 housing their child.

9 Those two categories can be fairly onerous.
10 Just those two categories alone can be fairly onerous.
11 The same is true in the child welfare system,
12 ironically enough. So state law requires that I, as a
13 judge handling foster care cases, impose a cost of care
14 order against parents whose children have been taken
15 away from them for abuse or neglect issues. And I'm
16 going to give you a detailed example to try to
17 illustrate my point in a moment.

18 But those cost of care orders are required by
19 statute. They are actually required by federal law, as
20 are the costs of care orders that are imposed in the
21 child delinquency system, in order to stay right with
22 the federal security auditors and the four -- Title IV
23 funders, states have to enact these cost of care
24 orders. That's how we get them.

25 Well, in the juvenile welfare system we have

1 a similar cost of care order and in the child welfare
2 system, the amount of child support I'm supposed to
3 impose against mom and dad who have had their children
4 removed is the amount of child support they would pay
5 to each other, if they were in a custody dispute.

6 So for one child, 18 percent of their gross
7 monthly income. For two children, 25 percent of their
8 gross monthly income, and so on.

9 Those can be very significant amounts of
10 money, by the way. As an arbitrary matter, across the
11 state, or really I only speak for Washoe County, years
12 ago we chose \$100 a month per child as what the cost of
13 care would be. But it's really an arbitrary number.
14 That's the state minimum under the child support
15 enforcement statutes.

16 But here's where the rubber really hits the
17 road, and the message I want to give to you folks. So
18 I told you there a thousand kids in foster care in
19 Washoe County. That means that there are at least
20 1,500 parents who are within the jurisdiction of the
21 child welfare court in Washoe County.

22 So there are several thousand, or several
23 thousands over the years, of cost of care orders that
24 have been imposed. Last year the total amount of child
25 support that was supposed to be collected for costs of

1 care from parents in the division of welfare and
2 supportive services system, the DCFS system in northern
3 Nevada -- this doesn't include Clark County -- so the
4 Washoe northern region that includes Washoe County, the
5 total number of dollars that were supposed to be
6 collected from parents was \$735,243. The total number
7 of dollars collected were \$80,082, and there are two
8 full-time state employees collecting those costs of
9 care dollars.

10 So they are able to collect about ten percent
11 of the dollars that are imposed. And the costs of
12 collecting the costs of care dollars is much, much more
13 than the actual dollars collected. So if you count up
14 not just the two employees and their fully loaded
15 benefit packages as State employees, the cost to the
16 state of that money, but then you consider in the
17 judicial time, the court time to process the costs of
18 care orders, the DA, Public Defender and alternate
19 Public Defender time to argue about those cost of care
20 orders, we spend hundreds of thousands of dollars a
21 year, just in northern Nevada, to collect \$80,000 for
22 cost of care orders.

23 And it gets worse. It gets worse in this
24 way: If you look at the child delinquency side, the
25 other side of the cost of care equation, so the kids

1 that end up in Jan Evans here in Washoe County or China
2 Spring/Aurora Pines, which is the more local camp, last
3 year juvenile services in Washoe County collected just
4 shy of \$25,000, about \$24,800, and to collect those
5 costs of care dollars they spent probably several
6 hundred thousand dollars, again across administrative
7 costs, to collect those cost of care dollars.

8 So here's the finest point I would give to
9 you. Yesterday -- my specialty as a judge is in a
10 project called Project ONE, which is a project
11 developed by the National Council of Juvenile and
12 Family Court Judges. It's a one family/one judge/no
13 wrong door, equal access to justice model.

14 So one judge -- me -- handles the kids who
15 are involved in both the child welfare system and the
16 child delinquency system.

17 Yesterday I had a hearing involving a
18 15-year-old boy who committed \$30,000 in damage to a
19 school locally while he was unsupervised. He committed
20 clearly a delinquent act. He was responsible for the
21 damage to the school.

22 But his parents are subject to a cost of care
23 order. His parents can be required to pay a portion of
24 the restitution dollars that are owed and his parents
25 are subject to a cost of care order in the child

1 delinquency system.

2 Those same parents, who are impoverished, who
3 have trouble holding legal source of income, safe and
4 stable housing, and addressing their own dependent --
5 or I'm sorry -- addiction-related issues, have huge
6 financial burdens on them. And the resulting, the
7 result of all the consequential cost of care and
8 restitution orders is a giant financial pressure
9 against the parents to succeed.

10 So the result of the cost of care order keeps
11 the kids longer in the foster care and child
12 delinquency systems, which is exactly the opposite of
13 what we want.

14 We know that the longer you keep a child in
15 the child delinquency or the foster care system, or
16 both, the more likely they are to meet the following
17 demographics: School dropout; early child pregnancy
18 and adult criminogenesis, or if you will, recidivism as
19 an adult.

20 So I would tell you from a boots on the
21 ground perspective, while I might say as a citizen,
22 yeah, I think parents should pay for the costs of their
23 children, the very, very counterintuitive results of
24 cost of care orders are to have the exact opposite
25 effect that you want in the juvenile justice system.

1 Thank you very much.

2 CHAIRPERSON BLAYLOCK: Thank you. Our next
3 presenter is Nicole Austin-Hillery.

4 MS. AUSTIN-HILLERY: Thank you so much.
5 Thank you so much to all the members of the advisory
6 committee who invited me to be here today. I'm quite
7 happy to be able to join you in person.

8 I'm particularly pleased to be able to join
9 you, given that there is snow and ice in Washington,
10 and my family and friends are all very envious that I'm
11 here with you in the desert and not there with them,
12 shoveling and dealing with inclement weather. So a
13 special thank you to you for that.

14 I am the director and counsel of the
15 Washington, D.C. office of the Brennan Center For
16 Justice. We are a national legal advocacy think tank.
17 We are affiliated with NYU School of Law and we were
18 founded 20 years ago to honor former Supreme Court
19 Justice William J. Brennan, and our goal and mission at
20 that time, and still is, to serve as a litigation think
21 tank advocacy organization that tries to fix the broken
22 parts of our system of democracy and justice.

23 As part of our justice program work, we think
24 one of those parts of our system that is in disparate
25 need of fixing is this focus on fees and fines that has

1 really taken ahold in so many jurisdictions across the
2 country.

3 So unlike some of my colleagues who are
4 testifying today, we're speaking with you very
5 specifically about problems here in Nevada. And I
6 understand that is the reason that you are gathered
7 here.

8 I was hoping to bring a more national
9 perspective to show that this issue is one that goes
10 far beyond Nevada, and it is one that is being dealt
11 with in jurisdictions across the country and is also
12 being looked at even by federal leaders on Capital Hill
13 and in relevant agencies in Washington, and my goal is
14 to try to offer, based on our research, and our
15 discussions with many of these different entities
16 across the country, some recommendations that we have
17 that we think may be helpful as you do your work here
18 in Nevada.

19 You already heard from not only the witnesses
20 on my panel, but also witnesses earlier today about the
21 onerous nature of this issue in the United States. You
22 know, particularly for us at the Brennan Center, what
23 brought us to this issue is that we strongly believe
24 that in our system of democracy this is a nation that
25 was built on second chances, and giving individuals an

1 opportunity, even when they make mistakes, to become
2 fully-fledged functioning members of our community.

3 We think that the imposition of fees and
4 fines really goes against that historical context. If
5 you burden individuals who have completed their
6 incarceration period, or who are somehow engaged in the
7 criminal justice system with fees and fines, you really
8 make it difficult, if not impossible, for them to
9 re-enter society.

10 If you make it difficult for them to get
11 housing, if you make it difficult for them to get an
12 education, and to pay the everyday bills that they are
13 relied upon as heads of households to pay, you really
14 are putting them in a position where re-entering the
15 community and serving as community leaders is virtually
16 impossible.

17 It is that reason that has brought us at the
18 Brennan Center to focus in on these issues. We just
19 frankly think these policies are a direct contradiction
20 to the rhetoric that our nation is one built on
21 offering second chances.

22 The Brennan Center has done substantial work
23 in this case area and I would like to share with you a
24 little bit about what some of that work is focused on.

25 We started out in this area doing an initial

1 set of research on flora, because we had learned from
2 constituents on the ground that this problem was
3 becoming particularly onerous in Florida jurisdictions.
4 And we did a report there in 2009 entitled "The Hidden
5 Costs of Florida Criminal Justice Fees."

6 From there we realized that we needed to look
7 at other states, to see what were they doing, and how
8 were they also dealing with this problem, if at all.
9 So we followed that up in 2010 with a 15 state analysis
10 entitled "Criminal Justice Debt, a Barrier to Reentry,"
11 and we found many of the kinds of scenarios that you
12 have heard talked about today, that individuals were
13 entering the criminal justice system, were finding it
14 difficult to pay the fees and fines, and as a result of
15 that, were being burdened with additional fees and
16 fines, and that it was creating a vicious cycle,
17 wherein individuals were finding they could not escape
18 the system, and that they were not being afforded an
19 opportunity to again re-enter their communities,
20 re-enter as heads of their households, and become fully
21 functioning members of our community.

22 We just did a report at the end of 2015 where
23 we wanted to take a closer look at how inmates are
24 charged, and the fact that we think the ways in which
25 these fees and fines are imposed does something really

1 horrible, that it has a collateral consequence. And
2 that is that it perpetuates mass incarceration.

3 For us at the Brennan Center, that is the
4 overarching issue that all of our work is focused on.
5 How can we help to put an end to mass incarceration in
6 the United States.

7 Our 2015 report looked at how the practice of
8 charging fees and fines to current and former
9 defendants just made it very difficult for them, again,
10 to ever escape the criminal justice system.

11 We know that in the United States we jail
12 more people than any other free society democratic
13 society in the world. We are troubled by these numbers
14 and we are troubled by any systems that remain in place
15 that continue to perpetuate these numbers, and we think
16 this issue of fees and fines is one that does just
17 that.

18 We at the Brennan Center have looked at who
19 is most impacted by this issue, and I know that's one
20 of the questions that is before this committee today.
21 You want to know, is there a disparate impact faced by
22 certain groups as a result of imposition of these fees
23 and fines.

24 Based on our research, and based on research
25 by other reputable organizations and news entities,

1 there are a few facts that I would like to share with
2 you.

3 One study of particular note that we advised
4 on is a study by National Public Radio, which they
5 conducted in 2014, and they found that defendants are
6 required to pay for government services that were once
7 free, that that's one of the overarching problems with
8 fees and fines, and that many of the services that
9 individuals are forced to pay for are services that are
10 really constitutionally required.

11 That in and of itself is also troubling. And
12 here's just a few key facts that I think it's important
13 for you keep in mind. In at least 43 states and the
14 District of Columbia, defendants can be billed for
15 services that are provided by a Public Defender.

16 We all know about the promise of getting in
17 the Sixth Amendment. I think many Americans would be
18 appalled to find out that those services are not free,
19 that in many jurisdictions defendants actually have to
20 pay for the Public Defender's Office.

21 In at least 41 states this study found
22 inmates can be charged room and board for jail and/or
23 prison stays. Again, another fact that I think if the
24 public were to be fully aware of this, they would be
25 alarmed.

1 Many members of the public know and
2 understand that they pay taxes in jurisdictions in
3 which they live. They believe that their taxes help to
4 pay for the criminal justice system. Many aren't aware
5 that in addition to the taxes that they pay, that
6 defendants often are charged fees on top of the tax
7 dollars that are provided to simply house them in their
8 local prisons and jails.

9 One of the other alarming parts of this study
10 that we found is that in at least 44 states, defendants
11 can be billed for their probation and parole
12 supervision.

13 Again, one of the aspects of our criminal
14 justice system that we know allows individuals to start
15 on that road to reentry is by having an opportunity to
16 have parole or probation offered to them.

17 But again, if you have individuals who are
18 having to pay for those services, that makes it much
19 less possible for many of them to take advantage of
20 them, which would leave them behind bars in the jails
21 and prisons, and again, helps to perpetuate mass
22 incarceration.

23 And finally, one of the other startling facts
24 in this report is that in all states, except for Hawaii
25 and the District of Columbia, we know the defendants

1 are charged for the use of electronic monitoring
2 devices. Again, we know that electronic monitoring
3 devices are an option that is used to ensure that
4 people have an opportunity to stay out of jails and
5 prisons. But again, if the onerous fees and fines are
6 making it difficult for an individual to take advantage
7 of that opportunity, again, that means their only
8 option is to stay behind bars and not have an
9 opportunity to again try to re-enter their community.

10 Sociologist Alexes Harris at the University
11 of Washington shows a very important point in her
12 research that she's done. And her research has shown
13 that the people most likely to impact, or rather to
14 suffer from arrest and to go through our court systems
15 are black and brown members of our community.

16 So your initial question is who was this
17 impacting. Studies have shown, and including studies
18 by us, that the majority of people who are impacted are
19 poor people, and that the majority of poor people in
20 this country who are part of the criminal justice
21 system are indeed black and brown people and we know
22 that those are protected classes of individuals in the
23 United States.

24 Because these groups have been historically
25 marginalized and impoverished, we know that even a

1 relative small bill for a fee can put an immense burden
2 on these communities, and can then have a domino effect
3 on their families, even beyond how it's impacting them
4 individually.

5 In some states, as you've heard, we know that
6 individuals who don't pay their fines can lose their
7 driver's license, their social services benefits, and
8 we also know -- and this is particularly important in
9 our democracy -- that for individuals who are in states
10 where their right to vote can be restored, once they
11 finish their incarceration period, that if they
12 continue to owe fees and fines, their right to vote
13 will continue to be something that is kept from them.

14 So what does all this mean? We have several
15 conclusions that we have drawn at the Brennan Center.
16 One, we know that criminal justice fees really shift
17 the burden from the government onto the accused and the
18 convicted, and we don't think that is appropriate.

19 We also know that fees and debts are
20 increasing because the criminal justice system has
21 grown bigger. The bigger the system grows, the more we
22 start to calculate and tack on these fees.

23 We also know that the burden that comes from
24 imposing fees and fines have a disparate impact on the
25 poor, most of whom are black and brown, as I have said

1 earlier.

2 We also know that the widespread nature of
3 charging fees to those who are incarcerated is directly
4 linked to a perpetuation of mass incarceration in the
5 United States. And finally, and maybe most important
6 to those of you who are in government is this: Fees
7 and fines simply do not help municipalities to save
8 money or raise revenue because it requires tremendous
9 resources to simply maintain the administration
10 oversight that is required for the imposition of fees
11 and fines.

12 Our studies have shown that many
13 jurisdictions have undertaken the imposition of fees
14 and fines as a way to raise monies. But really it is
15 having a converse effect, which is that it is causing
16 these jurisdictions to spend even more money by simply
17 administering fees and fines.

18 So we have a few solutions that we would like
19 to leave you. First of all, we think that
20 jurisdictions who are dealing with the burden of fees
21 and fines have to revisit collection practices. We
22 have found that chasing down formerly incarcerated
23 people, most of whom are poor, collecting debts is
24 often ineffective. We think you should look at other
25 alternatives.

1 Two, we think you should limit the scope of
2 many statutes that exist. Several laws that are
3 written and that are on the books in some jurisdictions
4 are vague or they provide excessive leeway that allows
5 correctional facilities and sheriffs' offices and other
6 law enforcement agencies to charge exorbitant fees to
7 inmates.

8 We think that criminal justice statutes
9 should be amended to set reasonable limits on the
10 discretion to assess such fees.

11 Thirdly, we think that you can improve
12 indigency waivers in statutes in certain jurisdictions.
13 Many states have statutes that allow for waivers of
14 medical and other fees if the inmate is indigent. Some
15 statutes, however, are silent on this subject. We
16 think that all statutes should require that corrections
17 promulgate rules authorizing waiver of fees in
18 circumstances where the inmate is indigent.

19 Finally, we think that caps should be set on
20 criminal justice debt. We think that setting caps on
21 how much criminal justice debt one can owe will curb
22 spiraling debt for the individuals impacted. And then
23 finally, the last two things I want to leave you with
24 is this: In 2012 the Brennan Center developed a report
25 that we call "A Toolkit for Criminal Justice Debt." I

1 have a copy of it here, but I have also sent on to Ana
2 Fortes links to this document.

3 This toolkit provides examples of successful
4 applications of many of these recommendations that I've
5 just articulated and it shows anecdotally how they have
6 been implemented in other jurisdictions and how other
7 jurisdictions have found success with the
8 implementation of this toolkit.

9 Finally, I'd like to point out a report that
10 the Brennan Center is currently in the process of
11 putting together, which will be a fiscal analysis
12 report on the fees and fines issue. It will examine
13 the cost of collecting fines and fees for the criminal
14 courts, and it will analyze how other departments have
15 evolved in collecting or assessing criminal justice
16 debt and how they are dealing with those fees and how
17 the burden of those costs can actually be absorbed
18 through other agencies.

19 Our report will seek to answer this one
20 crucial question and that is whether the revenue
21 collected as part of these practices actually justify
22 the considerable costs of the courts and other
23 governmental agencies.

24 In order to perform this analysis, we are
25 going to rely on quantitative datasets that we are

1 collecting from courts, from counties, and from state
2 budget documents. And finally, we are going to be
3 conducting interviews, as I like to say, ala Studs
4 Terkel, who was very much focused on having one-on-one
5 conversations with individuals about their experiences.

6 We are going to be talking to judges, to
7 court clerks, to police officials, and correctional
8 officials, and all of this information together we hope
9 will result in an intensive physical analysis report
10 that will be able to be used not only by your
11 jurisdiction, but by jurisdictions across the country.
12 This report is slated to be completed in 2018.

13 So I will stop there and again, thank you for
14 this invitation. Thank you for allowing me to speak on
15 behalf of the Brennan Center to talk about not only
16 what work is being done in the states but how an
17 organization like ours is dealing with this issue on a
18 national level.

19 We would be happy to continue to assist you
20 and offer additional commentary and research as your
21 work continues. Thank you.

22 CHAIRPERSON BLAYLOCK: Thank you. And our
23 last panelist in this section is Thomas Harvey.

24 MR. HARVEY: Thank you very much and I
25 appreciate the opportunity to be here today in person

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1 as well. I appreciate the efforts made to get us all
2 here in person for this meeting.

3 So my name is Tom Harvey. I'm the cofounder
4 of ArchCity Defenders, a 501(c)(3) nonprofit law firm.
5 We provide holistic legal advocacy to the poor and the
6 homeless in the St. Louis region and beyond.

7 We use direct services, impact litigation,
8 and policy and media advocacy as primary tools to
9 promote justice, civil rights, and human rights to
10 bring about systemic change on behalf of the poor and
11 communities of color directly impacted by the abuses of
12 the legal system.

13 We face a crisis right now that impacts
14 millions of people across the country, and we have to
15 act now to end that crisis. And I'm very glad to be
16 here to talk about some of these issues.

17 11 million people each year cycle through our
18 local jails. This is not a result of a massive crime
19 wave of epic and violent proportions. The FBI, which
20 is not exactly known for its progressive positions on
21 law enforcement, admits that 96 percent of all arrests
22 in America are for nonviolent crimes.

23 In spite of that, there are 500,000 human
24 beings locked in a cage right now as we speak, solely
25 because they are unable to make a cash payment to buy

1 their freedom. We've become so comfortable throwing
2 human beings in a cage that we now do it solely because
3 they are poor, and most often from communities of
4 color.

5 The United States incarcerates black men at a
6 rate six times that of South Africa at the height of
7 apartheid. As you consider solutions to the problems
8 that you are looking at, ask yourself how we got to
9 this moment, and whether the proposed solution goes far
10 enough.

11 Popular reforms include seeking to cap
12 revenues that can be collected from municipal courts,
13 to allow people to work off their fines through
14 community service, and while these may be appealing on
15 the surface, they miss the mark if you consider the
16 broader historical context of revenue-generating
17 practices in courts, their deeply racist practices, and
18 the relationship between those practices and modern day
19 practices.

20 The current court practices represent the
21 largely uninterrupted collaboration between police,
22 courts, and local governments, not only to oppress
23 black people and poor people in America, but also to
24 profit from that collaboration, starting with legalized
25 slavery that built the United States, continued to the

1 reconstruction era, followed by debt peonage that
2 replaced it, and the further criminalization of black
3 lives in poverty.

4 Whether it's the creation and selective
5 enforcement of trespassing, vagrancy, panhandling laws,
6 or the disparities in traffic stops and the mandatory
7 sentencing for drug cases, the legal system has
8 reflected historically the most pernicious stains of
9 racism in America.

10 This apartheid system, like system, exists
11 throughout the nation. While one may be inclined to
12 believe that these types of problems are limited to
13 vestiges of deep south racism, the problem is more
14 pervasive than that.

15 Think about the city of Montgomery, Alabama,
16 one of eighteen states where advocates have sued
17 challenging illegal fees and fines, debtors prisons,
18 and cash bail since 2014.

19 The city of Montgomery was sued in Federal
20 Court for jailing people who had been assessed
21 extraordinary amounts of money for alleged violations
22 of traffic law, and then offering them the chance to
23 work off their debt to purchase their freedom at a rate
24 of \$25.00 a day.

25 Now compare that to what Douglas Blackmon

1 wrote in Slavery by Another Name, about practices in
2 Montgomery, Alabama in 1903, "Information in the hands
3 of the Secret Service Chief Wilkie tends to show that a
4 regular system has been practiced for a long time
5 between certain magistrates and persons who want Negro
6 laborers.

7 "It is said the plaintiffs would bring a poor
8 Negro before a magistrate on a flimsy charge. He's
9 convicted, and having no money to pay a fine, a white
10 man offers to advance him the money, to provide the
11 Negro with a labor contract, he will make a labor
12 contract with the white man for a length of time
13 sufficient to reimburse him for the money and the
14 trouble he's taken to keep him out of jail.

15 "He is thereupon taken away, and begins what
16 is frequently a cruel term of servitude. Montgomery,
17 Alabama in 1903, black men were arrested and charged
18 with a crime, held on a bond and could not afford and
19 then allowed to work off that debt in employment of a
20 local businessman."

21 In 2014, some 111 years later, we've managed
22 solely to cut out the middleman. The businessman is no
23 longer needed. The person arrested in Montgomery and
24 held because of his property can simply work off his
25 debt to the City.

1 Ask yourself if reduced fines and community
2 service fixes this problem, or if it's simply a
3 variation on a theme. Is it yet another way the system
4 recalibrates to produce the same results.

5 I'm sure the situation in St. Louis is
6 familiar to you by now. In August -- on August 9th of
7 2014, the day Mike Brown was murdered, there was
8 600,000 active warrants for arrest in a region that
9 only had 1.2 million people.

10 Thousands of people have been jailed for
11 their poverty. Poor people and black people were
12 literally killing themselves because they could not get
13 out of jail.

14 There was a complete lack of trust between
15 people, law enforcement, and government leaders. When
16 people took to the streets following Mike Brown's
17 murder, they weren't just protesting police violence
18 against unarmed black men. They were protesting a
19 system. They were protesting this outgrowth of
20 slavery, the blackcoats, Jim Crow, the drug war.

21 They all have some tie to our courts and to
22 our legal system. In St. Louis we call them municipal
23 courts. But what they are is poverty-producing
24 examples of systemic racism.

25 People protested killings but they also

1 protested 91 cities with 81 courts and 67 police
2 departments. They protested Ferguson's 32,000 warrants
3 for arrest with only 21,000 people. They protested
4 raising \$2.6 million in fines and fees on the backs of
5 the poor.

6 When people faced tanks and tear gas in
7 Ferguson, it was because the police shot an unarmed
8 black man. Dehumanized through slavery, convict
9 leasing, and the drug war on poverty courts, they are
10 easy to treat as dangerous.

11 But they also protested long lines to pay
12 fines from racial profiling, they protested being
13 locked in a cage because they were too poor to make a
14 payment. They protested the City of St. Ann collecting
15 \$3 million from the courts. Florida has been
16 collecting \$2 million from the courts, and all the
17 while pretending this was about public safety instead
18 of being about race and class.

19 They protested being jailed without access to
20 medication. They fought back against being locked in
21 cages without blankets, without being given a shower,
22 being forced to share a toilet and being forced to
23 strip naked to use it. Black women with children
24 protested being stolen from their kids because they
25 didn't have \$350 in cash to buy their freedom.

1 Everyone naturally knows who Sandra Bland is,
2 the outgoing young black woman who was arrested after a
3 traffic stop, and jailed because of her inability to
4 make cash bail.

5 In St. Louis we know about Kim King, Dejuan
6 Brison, Charles Anthony Chatman, Jenny Newman and
7 Bernard Scott. All of whom hang themselves, or tried
8 to hang themselves during a nine-month period between
9 2014 and 2015.

10 A client of ours, Nicole Boldem, was stopped
11 in a city, spent more than four weeks in jail because
12 she didn't have \$150. She was in college, working,
13 living on her own, taking care of her kids at the time.
14 Not to be jailed for poverty, Nicole's charge was being
15 an indigent black woman who couldn't afford to register
16 her car.

17 Kianna Williams has spent four months in
18 jail. Three weeks in the city of Piedmont, two weeks
19 in the city of Arnold, locked in an eight by five cell,
20 shoulder to shoulder with eight other women. There was
21 no toilet. She had to beg to use the bathroom. This
22 was for unpaid traffic tickets.

23 Keilly Phan is a 37-year-old woman and single
24 mother. She is the lead plaintiff in our federal class
25 action, Phan versus Ferguson.

1 She tries to support her family as a
2 certified nurses' assistant. She has been jailed by
3 Ferguson more than a dozen times for her inability to
4 make payments.

5 She spent 58 days in Ferguson jail. She's
6 lost jobs and become homeless, as a result. This is
7 all because of her poverty. I'm not from Nevada, I
8 don't practice here. I run a couple articles here as a
9 result of some research I was doing to try to find
10 other jurisdictions that had failed legal systems
11 similar to St. Louis.

12 Using the world's most powerful research
13 tool, Google, I entered the following search terms:
14 Amnesty day, traffic tickets, Nevada.

15 Amnesty day is a regular occurrence in
16 St. Louis. I can tell you that the presence of an
17 amnesty day in your community is a good sign that you
18 are doing something wrong.

19 That means fines are being assessed without
20 regards to the ability to pay. It means that warrants
21 are being used to collect revenue for your city. If
22 you are willing to go to that extreme, it indicates
23 that your city relies heavily on that revenue, that you
24 want to exert social control over poor and often
25 minority population, or maybe both. Regardless, it is

1 a symptom of a failed legal system.

2 That headline in the first article I read was
3 from 2009. It read: Last day of traffic amnesty could
4 yield one million dollars, with the subheading that
5 said "at least 2,000 people waited in line."

6 The article went on to say that \$12 million
7 in unpaid fines had been collected during the course of
8 the program. It warned that the continued failure to
9 pay would result in warrants, jailing, additional fines
10 and fees for issuing those warrants and holding the
11 people in jail.

12 A second article was from 2016 and it is
13 importantly different. It did reflect an understanding
14 from the judge that people have challenges paying their
15 fines, that people fear being jailed if they come to
16 court if they don't have money.

17 However, it still emphasized primarily
18 efficiency and revenue, and it assumed that everyone
19 had the ability to pay the fines and that the charges
20 were legitimate. Further, it projects problematically.
21 It ends with the same threat as the 2009 article, a
22 quote from the judge saying failure to pay could result
23 in a suspended driver's license, time in jail, and a
24 mark on your criminal history.

25 Again, I find the second article more

1 disturbing because it comes after 2014. It comes after
2 the nation's attention being focused on this very
3 issue. Dozens of lawsuits that are collected, we have
4 a lawsuit where we won \$4.75 million from the City of
5 Jennings for exactly these practices. You would think,
6 as a practical matter, people would begin to really
7 revise these practices.

8 The DOJ wrote a letter to every judge in
9 America detailing unlawful and unproductive practices
10 in courts, required courts to inquire into the ability
11 to pay when assessing fees and fines.

12 Neither article asked if people had the
13 ability to pay the fines that led to the warrant for
14 their arrest. No court official talks about poverty,
15 no one talks about the circumstances that led the
16 individuals to come into contact with law enforcement
17 that day. Ask yourselves why that is, but hold on to
18 that thought as I propose a few selections.

19 Number one, and these will not be as
20 sophisticated as Nicole's or Megan's solutions, so bear
21 with me. Don't forget about the role race plays here
22 and quit asking people to prove it. It's insulting.
23 There's nothing more offensive to my clients than for
24 someone to tell them prove to me that poor people and
25 black people are disproportionately affected by the

1 criminal legal system.

2 Our entire legal system is based on this.

3 Fines and fees are just one example.

4 Stop believing that people who live in
5 poverty can be punished into compliance with the law.

6 If you are too poor to get your car registered, it
7 doesn't matter how many times you are punished by being
8 stopped, ticketed, jailed, fined, or being given
9 community service.

10 Until your poverty goes away, it just doesn't
11 matter. Fund programs that help people get their
12 licenses back and get their car repaired that are
13 outside of the legal system, and not a part of
14 probation.

15 Do not arrest people for low level nonviolent
16 offenses, ever. Take jail permanently off the table,
17 even if they owe you money. Just collect it as if it
18 were a civil debt. You get it or you don't get it,
19 just like every other debt.

20 Be patient. You have been doing it wrong for
21 a long time. And it's going to take a long time for
22 community members to trust the legal system.

23 The last one comes back to my question about
24 why nothing has changed between 2009 and 2016, or very
25 little had changed, and I would suggest that you seek

1 ways to hold judges accountable for their bad acts.

2 One of the major judicial reforms that's been
3 proposed across America is a bench card. This is
4 popularized in Ohio after scores of judges admitted
5 that they were either unfamiliar with the basic tenets
6 of constitutional law, or they were ignoring them, and
7 jailing people because of their poverty.

8 The bench cards are essentially a cheat-sheet
9 about the constitution. My homeless client goes into a
10 casino in the middle of the winter to avoid dying
11 outside in the cold. He's charged with trespassing.

12 Nobody releases him upon the promise of
13 carrying around a cheat-sheet about trespassing law.
14 If a judge violates the law, we give them training, a
15 bench card. No sanctions. No firings. No bar license
16 revoked, nothing.

17 The Judge Hub Harold of Alabama suggested at
18 a White House convening in December of 2015 you can
19 show that the judges did this intentionally, go even
20 further, prosecute them federally. As he said "we know
21 about the victims, what are we going to do about the
22 perpetrators."

23 I hope the testimony you heard here today
24 will prompt some real solutions. Thank you very much
25 for the time and invitation.

1 CHAIRPERSON BLAYLOCK: Thank you. I'd like
2 to open the floor up to the committee for questions.

3 MS. JENKINS: As a member of the committee
4 and I want to ask everyone on the panel to consider
5 this question and maybe give me your own take on it,
6 and basically what I absorbed and heard from each one
7 of y'all's testimony was amazing and informative.

8 Some things I didn't know. Troubling, too,
9 was tell me what you think in terms of, for cost of
10 care for restitution orders, for fees, waivers, how are
11 those applied for indigent persons or homeless people.

12 What are the standards to maybe get that for
13 your clients, or to get that for your young juveniles,
14 your kids? How does one -- what are the standards in
15 order to get that fee waiver, and how do you go about
16 arguing that for your client, or just tell us about the
17 standards to get those fee waivers, which seem to be
18 helpful for people who don't have the means to pay
19 them.

20 MS. AUSTIN-HILLERY: I will just start by
21 saying I'm going to be the first ones of my colleagues.
22 Because we at the Brennan Center, we do not represent
23 clients. So we look at fee waivers and we look at how
24 much they have been operating, what the outcomes of
25 them are, and that's one of the reasons why we

1 recommend them as something that can be used.

2 But we are not the lawyers who actually go
3 into the courtroom and help to argue on behalf of our
4 clients in order to have those awarded to them.

5 MS. RAUCH: Likewise, we are not a legal team
6 so we can't comment.

7 MR. WALKER: So Mr. Harvey and I --

8 CHAIRPERSON BLAYLOCK: Yes, go ahead.

9 MR. WALKER: Yeah, I was going to say,
10 Mr. Harvey and I can have a debate because I'm one of
11 those evil judges that he so excoriated moments ago.

12 But actually, in fairness to him, and in
13 keeping with the philosophy of his statements, I'll
14 tell you as a matter of practice here in Washoe County
15 we decouple payment with any decision about return of
16 children or incarceration, or otherwise.

17 So you ask, are there fee waivers? Yes,
18 there are. To get a fee waiver generally you have to
19 be at 150 percent of poverty level, which is way too
20 high a level for any of the folks who live in poverty.

21 But I gave you some specific costs of care
22 examples for parents who had had their children removed
23 by social services, and as a model court process,
24 again, a process begun through the National Council of
25 Juvenile and Family Court Judges, as a model for

1 process, myself, the District Attorney's Office, the
2 Public Defender's Office, the office of Public
3 Defender's Office said you know, what we are doing is
4 madness.

5 It costs more to collect the costs of care
6 than we get in the costs of care. It keeps kids in
7 foster care longer, and it makes parents more likely to
8 fail.

9 So in every single case in Washoe County now
10 I don't impose a cost of care award. That's
11 problematic because there's a state statute that
12 requires that I impose a cost of care award.

13 So what I say in every single case is,
14 imposing costs of care does not serve the best
15 interests of the child or children involved in this
16 case, and it creates a situation where their parents
17 can't succeed at reunification.

18 But that requires a lot of extra work on the
19 part of the judge, which is appropriate. So those are
20 my thoughts.

21 MS. JENKINS: Thank you.

22 MR. HARVEY: So we have a hearing that you
23 can ask for to make a finding of indigency. One of the
24 problems that I find with this, and that's kind of
25 where everybody shifts then as to how do you define

1 indigency, and there's been a lot of work around the
2 country. I'm trying to come up with some standards
3 that would make that more clear.

4 So we have proposed that you take an
5 affidavit, you take a declaration of indigency from
6 someone, and if you believe that they have committed
7 perjury, you can go after them for that. But the folks
8 who are -- let's be frank -- somebody who can't get out
9 of jail, has been in jail for two weeks because they
10 owe \$100 is indigent; right? I don't need a study to
11 figure that out, if you recognize where most of the
12 folks are in jail.

13 But there is a process to do it, which the
14 next battle then becomes making the argument,
15 persuading a judge who may or may not understand what
16 poverty looks like, that a person is indigent. And for
17 folks who are not working in the formal economy, this
18 is even more challenging.

19 MS. JENKINS: Thank you.

20 CHAIRPERSON BLAYLOCK: Thank you.

21 MS. COSGROVE: I'm Sondra Cosgrove. I'm the
22 President of the League of Women Voters of Las Vegas
23 Valley, and I'm with the League of Women Voters of
24 Nevada.

25 Oftentimes when we come across problems like

1 this, where we engage is the political solution that
2 has to go along with it, and I've kind of been through
3 that rodeo enough times to know if you are going to
4 approach a legislator or you're going to start talking
5 to the governor, they want data. They want to know the
6 size of the problem, the complexities of the problem.

7 And I think one of the things we've heard in the
8 previous panels is that we're not collecting data, and
9 the data we are collecting is not useful.

10 Do either of the policy experts have
11 recommendations on what data needs to be collected,
12 what data needs to be saved and what data needs to be
13 reported, in order for us to be able to use it in a way
14 that helps with political solutions.

15 MR. WALKER: So this is Egan Walker in Washoe
16 County, if I could just jump right in.

17 The national council has a National Center
18 for Juvenile Justice and the National Center for
19 Juvenile Justice is the nationwide repository for
20 juvenile justice data. So right here in Nevada we have
21 the repository for juvenile justice data in the United
22 States. That's the number one resource I would point
23 out.

24 The other thing I would point out is there is
25 movement, good movement in the state. There's a

1 statewide juvenile justice improvement initiative that
2 was chaired by the First Lady Kathleen Sandoval.

3 One of the big five governor bill drops on, I
4 believe it's March 20, is going to be a juvenile
5 justice initiative, a statewide revamping that will
6 require -- and the first speaker today alluded to it --
7 a statewide uniform risk assessment instrument to be
8 provided to children who enter the juvenile justice
9 system, and then a statewide way of gathering data
10 about those children, all of the demographics related
11 to those children.

12 The other thing I would point out is that
13 when we talk about these great policy decisions, I
14 think that it's important to know, I'm talking now as a
15 former prosecutor in this state, and now a judge for
16 almost ten years in this state. The goal is always
17 safer communities and healthier children, and speaking
18 to juvenile justice in particular, the national council
19 teaches and the data that the national council collects
20 demonstrates that safer children don't occur through
21 incarceration.

22 And it's ironic to me that I would say that,
23 because you all might not know me, but I've done
24 multiple life sentence cases, I've done murder
25 prosecutions in Washoe County. I was once described as

1 to the right of Attila the Hun as a prosecutor.

2 But once you learn the demographics that, for
3 example, Mr. Harvey talks about, and Ms. Austin-Hillery
4 talk about, and you keep in mind that the goal is a
5 safer community, you have to really ask yourself how do
6 you get from here to there, and as Ms. Austin-Hillery
7 said, mass incarceration is not the way. We won't have
8 safer communities by that.

9 So I guess all I'm trying to say is we
10 already have the data, actually. We just need informed
11 policies now.

12 MS. AUSTIN-HILLERY: Ms. Cosgrove, I think
13 that the very reason why the Brennan Center is
14 undertaking this fiscal impact analysis is exactly what
15 you have pointed to.

16 We know that for most lawmakers -- and this
17 happens when I'm on Capital Hill all the time -- the
18 question I get, regardless of how wonderful a policy
19 recommendation I might be making for the Brennan
20 Center, the ultimate question that I always get is:
21 Show me the money. What do the dollars show. How is
22 the money being spent. Who is it going to impact,
23 based on those dollars. Who is going to have to come
24 up with the dollars.

25 So the kind of research that we are

1 undertaking, as we speak, looking at, you know, how is
2 the revenue being collected, are there other ways for
3 the revenue generation to be absorbed or shared. You
4 know, what is the quantitative analysis that we need to
5 be looking at.

6 I think that's going to get to the core of
7 what you are pointing to. It's this kind of analysis
8 that's going to be helpful when you do face
9 legislatures to talk about the real kinds of policies
10 that need to be put in place.

11 They always want to know about the dollars,
12 and I do agree with the judge that a lot of the data, a
13 lot of very poor data has been collected. But I don't
14 think enough of the fiscal data has been collected, and
15 we want to make sure that we are putting that out there
16 in the public domain so that it can be useful.

17 MS. COSGROVE: And that's what you are
18 working on now?

19 MS. AUSTIN-HILLERY: That's what we're
20 working on now. That will be available in 2018, in
21 early 2018.

22 CHAIRPERSON BLAYLOCK: Thank you. Other
23 questions?

24 MS. BERGQUIST: I have a question. So I
25 heard Mr. Harvey talk about his perspective about use

1 of community service as an option to fees and fines,
2 but I think you are the only one who directly addressed
3 that, and I was curious about the rest of the panel,
4 whether they thought that community service is a viable
5 option for indigent clients, or whether it perpetuates
6 or reinforces the system.

7 MS. AUSTIN-HILLERY: Well, I don't know if
8 you want to clarify that, but I believe what he said
9 was that is not a viable solution.

10 MS. BERGQUIST: That's why -- I think that's
11 what he said.

12 MS. AUSTIN-HILLERY: I would have to say we
13 concur with that finding. We don't think that it is a
14 viable solution. It's really still perpetuating this
15 concept that you poor person owe something, and that's
16 what we have to rid ourselves of.

17 It should not be, as I pointed out, that you
18 have to pay for your Public Defender. It should not be
19 that you have to pay for your room and board when you
20 are arrested, when we have a system within our
21 democracy of collecting taxes and providing for
22 incarceration mechanisms. It shouldn't be that you
23 have to pay for that.

24 So just simply changing the ways in which you
25 are collecting fees and fines, if you will, does not

1 make the situation better. What we need to do is to
2 get rid of this onerous burden altogether, not simply
3 replace it with another mechanism.

4 MS. RAUCH: We would echo what our colleagues
5 have said. When we spoke with HELP of Southern Nevada,
6 which works with people who are affected by the justice
7 system, they said about ten dollars of the fine equals
8 about one hour of community service.

9 So if you are charged, you know, \$400, that's
10 40 hours that you are expected to do community service,
11 if you are unable to pay that fine.

12 So what they told us is even people who are
13 living in poverty and people in low income communities
14 will choose to take on that fine, not realizing down
15 the road it should end up costing them more money than
16 doing the community service because logistically, 40
17 hours, if you are supporting your family working two,
18 three jobs, it's not -- you don't have 40 hours. So
19 it's just, yeah, the fines are just not a feasible
20 option and community service isn't, either.

21 MR. HARVEY: Can I just give a quick
22 illustration of that? We represent largely folks who
23 are experiencing homelessness, and often women and
24 children.

25 So this initially seemed like a really great

1 option, to go do community service. But immediately we
2 were faced with the reality that now mom has to go get
3 childcare for her children while she's staying in a
4 homeless shelter and she can't -- the kids can't stay
5 there throughout the day, so she's actually incurring
6 quite an expense, if she can, or leaving the children
7 with someone, which raises all these other
8 possibilities such as child endangerment charges, which
9 we have defended people on, who actually were going to
10 do community service and left the kids with somebody.

11 It just creates a whole new world. Plus,
12 ironically, one of our clients was ordered to do
13 community service at the homeless shelter where she was
14 staying, which is absurd; right? That she would be
15 volunteering at the place that is serving her.

16 So when faced -- with some judges, when faced
17 with the kind of absurdity of that reality, they just
18 waived the fines. That's what we want, is just waive
19 this and be done.

20 As I said, there's no amount of punishment
21 that the legal system can impose upon someone who is
22 living in a homeless shelter that is going to be
23 meaningful. They've already been punished.

24 MS. AUSTIN-HILLERY: I have, just have one
25 other caveat. If I had to give an historical analogy,

1 and this really dovetails with what Ms. Rauch offered,
2 it's kind of like share-cropping. You continue to work
3 in order to pay off some kind of debt with a work that
4 is never equivalent to what the debt is. And so the
5 cycle simply continues, and you never really reach the
6 point where you break even.

7 I don't think that's a part of our history
8 that we really want to revisit, but I think it's quite
9 analogous to what we are looking at when we talk about
10 using community service as a way to pay off fees and
11 fines.

12 MS. BERGQUIST: Our court administrator this
13 morning saw community service as a viable option, or
14 the option, right, if you can't pay. That's why I
15 wanted to clarify.

16 MR. HARVEY: May I answer a question with
17 that? So one of the things that we've kind of toyed
18 with is would the court accept a cash payment from
19 someone else on behalf of -- say, if I wanted to write
20 a check on behalf of someone for their fines, would
21 they accept that? Does anyone -- I mean and if so...

22 MS. BERGQUIST: The judge might know.

23 MR. HARVEY: So would you accept community
24 service done by me on behalf of someone else? Because
25 that might be a viable option. If you get -- we've had

1 some success with church groups going out and doing
2 community service and then saying I did 40 hours of
3 community service, I would like it to stand for the
4 person who couldn't otherwise do it.

5 Not everybody will do that. But you could
6 probably find some folks who would be willing to do
7 that kind of work, and the principle, I think is, I
8 assume they would accept the cash. Often they don't
9 want to accept the community service because there's a
10 desire to punish folks. The money is separate,
11 somehow.

12 MR. WALKER: If I could just build off that
13 comment in one way, first, robust research at academic
14 institutions across the country, as collected through
15 the National Council of Juvenile Justice, as testified
16 repeatedly to in Congress, is that punishment doesn't
17 work with human beings, and especially doesn't work
18 with children.

19 Children don't react positively. They don't
20 change their behavior in response to punishment. They
21 change their behavior in response to a lot of other
22 things, most notably a meaningful connection with one
23 other human being, which can be their parent, a
24 teacher, someone else.

25 The only leveling comment I would offer about

1 community service has in particular to do with
2 children. One of the most robust successful models
3 I've seen for diverting children out of both the
4 juvenile justice system and out of the formalized
5 psychiatric, locked psychiatric care system is that of
6 Milwaukee, Wisconsin. It's called wrap-around
7 Milwaukee.

8 That model connects children to churches, to
9 civic organizations and other organizations, and the
10 children who would otherwise be captured in the
11 juvenile justice system do perform community service,
12 but the kind of nature of community service they do
13 isn't tied to -- and the purpose for it isn't to
14 reimburse the system for the cost of whatever is
15 happening to them.

16 It's instead designed as a pro-social
17 activity to get the kids involved with members of their
18 church, members of their local community organizations,
19 other things like that.

20 So I think it's wrong to say that you should
21 pay off your fines and fees through community service.
22 I think I agree with the other speakers that that can
23 be a process of indentured servitude in a lot of ways.
24 But I also think it's wrong to just take it completely
25 off the table without examining the places and the

1 mechanisms or the ways in which it works.

2 CHAIRPERSON BLAYLOCK: Thank you.

3 MS. AUSTIN-HILLERY: There's a question.

4 CHAIRPERSON BLAYLOCK: And Theresa, I'm
5 sorry, but we are out of time. So perhaps what we
6 could do is if you could submit your question and we
7 can forward it to our policy experts and have them
8 respond.

9 MS. NAVARRO: Okay.

10 CHAIRPERSON BLAYLOCK: So I would like to
11 thank all of you.

12 MS. FORTES: We can have Theresa ask a
13 question. We have some time.

14 CHAIRPERSON BLAYLOCK: Oh, Theresa? All
15 right, we do have time. My mistake.

16 MS. NAVARRO: Okay, great.

17 There's two. They are short and quick.
18 Okay?

19 One question is I want to ask the judge here,
20 is there a time limit for community service? If they
21 owe so much money and they have to do like 40 hours of
22 community service, do they have to do it during a
23 certain period of time, or is it -- does it just go and
24 go until the person completes it?

25 MR. WALKER: The community service I deal

1 with has to do with children. And state law, for
2 example, related to what would otherwise be a DUI, or
3 other enumerated offenses, like graffiti actually
4 requires that children perform community service as a
5 part of their disposition.

6 But as Mr. Harvey and others alluded to, I
7 believe in individualizing, and this is, again, as a
8 consequence of training I get through the national
9 council. I believe in individualizing the result.

10 What's the purpose for the community service?
11 So kids, let's use your average tagger as an example.
12 Kids can create a giant amount of damage to the
13 community through graffiti. Not, of course, having any
14 clue what they are doing, or any real understanding
15 about the damage to the victims they are, and it makes
16 no sense to create an indentured servitude out of that
17 child to perform 400 hours -- which is what the statute
18 contemplates -- of community service.

19 So we tend to skew toward Bob Listenbee's
20 famous phrase: Right kid, right service, right time.
21 I hope that answered your question.

22 MS. NAVARRO: Yes. That does answer the
23 question. And the second question, related to the girl
24 that did the -- Jessica; is that right? That did the
25 impact thing. I want -- on fines.

1 I want to ask a question here. You made a
2 list of impact of fines, and you said on here that an
3 inability to get record expunged, are you talking that
4 someone is in juvenile system until they are 18 and
5 then they can't get rid of that offense?

6 MS. RAUCH: Okay, I think you are asking that
7 to me; is that correct? Okay, for the record, it's
8 Meghan Rauch, from the Guinn Center.

9 MS. NAVARRO: I'm sorry.

10 MS. RAUCH: It's okay. Okay, if you'll give
11 me a second, so the inability to get your records
12 expunged, that usually costs money, and you need an
13 attorney to represent you, and go before a judge to
14 request that you have your record expunged. So all of
15 those things, you know, if you -- you know, if you
16 can't pay your fine, and it keeps building and building
17 and building, and then, you know, you want to get rid
18 of it, again, more money, it's something that has just
19 not been available to you previously. It's not, you
20 know -- it's not going to be available to you.

21 MS. NAVARRO: Okay. Thank you. That
22 answered my question.

23 CHAIRPERSON BLAYLOCK: Thank you. I'd like
24 to thank all of our policy experts for being here today
25 and sharing your information with us. I've learned a

1 lot. So thank you again for meeting with us. Thank
2 you, Judge.

3 We will reconvene at 2:45.

4 (Recess taken.)

5 * * * * *

6 ADVOCATES AND COMMUNITY MEMBERS PANEL

7 -o0o-

8 Amy Rose, Legal Director

American Civil Liberties Union, Nevada

9 Alex Cherup, Vice President

10 National Association for the Advancement of Colored
People

Dustin Marcello, Esq.

11 Defense Attorney, Pitaro & Fumo Law

Hannah Brown, President Emeritus

12 Urban Chamber of Commerce

13 * * * * *

14 CHAIRPERSON BLAYLOCK: Good afternoon and
15 we're ready to start our last panel of the afternoon,
16 which is for advocates and community members.

17 So joining us this afternoon are Amy Rose,
18 Legal Director from the American Civil Liberties Union
19 of Nevada; Alex Cherup, Vice President, National
20 Association for the Advancement of Colored People, Las
21 Vegas; Dustin Marcello, Defense Attorney, Pitaro & Fume
22 Law; and Hannah Brown, President Emeritus, Urban
23 Chamber of Commerce. And we will begin with Amy Rose.

24 MS. ROSE: Good afternoon. My name is Amy
25 Rose. I'm the legal director for the ACLU of Nevada.

1 On behalf of the ACLU I want to say thank you so much
2 to this committee for sharing testimony all day long,
3 and for taking on this issue. It's such an important
4 issue, both locally and nationally. So thank you for
5 listening to us and hearing everything that's going on.

6 For people who don't know, and for everyone
7 who does, the ACLU, we're a national organization. We
8 work in courts, legislatures, and communities to defend
9 and preserve individual liberties, rights guaranteed by
10 the constitution and the laws of the United States.

11 We're a non-partisan organization, and we
12 have more now. Now we have more than a million members
13 nationwide. And locally the ACLU of Nevada has been
14 protecting and defending the rights of Nevadans for
15 more than 50 years.

16 My testimony today will highlight concerns
17 about municipal court practices that lead to a
18 phenomenon we call debt -- modern-day debtors prisons,
19 which is the jailing of people for nonpayment of fines
20 and fees that they can't afford through procedures that
21 violate their most basic constitutional rights.

22 I'll also provide to the committee some
23 recommendations on how municipalities can reform their
24 current practices, and we'll talk about the best
25 practices. The best practices I'll suggest today are

1 drawn actually from reforms that were implemented in
2 the City of Biloxi, Mississippi.

3 This was actually as a result of a recent
4 settlement from an ACLU case in Biloxi. So I think
5 what we'll present to you at the end there's a really
6 workable model to try to fix some of the problems I'll
7 talk about today.

8 Over the years municipalities, counties,
9 states across the country, in an attempt to fill budget
10 gaps, have identified a ready source of funds in people
11 accused of misdemeanor criminal offenses, ordinance
12 violations, and traffic and civil infractions.

13 Some municipal courts have attempted to
14 supplement their funding and sometimes raise general
15 municipal revenue by charging fees to the people -- to
16 these people, including fees for court administration,
17 jail operations, and probation supervision.

18 These courts across the country, with the
19 explicit or implicit support of municipal leaders and
20 police, use aggressive tactics to collect these
21 court-imposed fees, fines, costs, assessments and all
22 of this I'll refer to collectively in my testimony as
23 just fines and fees.

24 Here in Nevada, in addition to any fee that's
25 imposed as part of the original citation, there are

1 statutorily-mandated fees that have to be assessed. In
2 addition to these statutory fees, you can also assess
3 fees for the provision of court facilities, for the
4 provision of specialty court programs, and even fees
5 for the collection of delinquent fees, and local
6 municipal courts in Nevada often tack on all kinds of
7 additional fees.

8 So in addition to these statutory fees, we
9 often see fees for warrant processing, we see fees for
10 a bond fee for a work program, a genetic marker testing
11 fee, a financial consulting fee -- which seems kind of
12 counter-intuitive -- and even a fee for participating
13 in a payment plan.

14 So we can see that the fees really are not
15 geared towards helping people get out of whatever
16 situation they are in. And concerning these
17 administrative fees, can often total significantly more
18 than the underlying fine itself.

19 They can easily -- the fees can easily
20 accumulate to over \$1,000. And the statutory fees in
21 Nevada have been increasing recently. So in 2003 the
22 legislature increased the mandatory statutory fees that
23 have to be assessed, and then they increased it again
24 in a special session in 2010.

25 So just a few years later they increased it

1 again. An assessment of administrative costs
2 essentially can really lead to the imprisonment of
3 indigent persons in Nevada, even though the Nevada
4 statutes, and both the Nevada and U.S. Constitution
5 prohibit this behavior.

6 What's really important, and I know the
7 committee is interested in this, is there's a history
8 of concern in Nevada that people of color are
9 disproportionately impacted by these practices.

10 A 2002 study, which was commissioned by the
11 Nevada legislature, found that black and Hispanic
12 people in Nevada are more likely to be pulled over for
13 traffic stops than white people, and black and Hispanic
14 people are handcuffed and arrested by law enforcement
15 at a higher percentage than white people.

16 So if we're really concerned about what
17 communities these fines are impacting, the study --
18 although it's probably a little dated right now, I
19 think gives us some insight into what might be
20 happening.

21 Interestingly, there were some criticisms of
22 this study, and so the Reno Police Department did their
23 own traffic study in 2004, after this study came out,
24 and they found the data that they produced showed
25 almost the exact same thing.

1 So they showed that black drivers are
2 detained for longer periods of time, were asked to exit
3 the vehicle more, were searched more often, and were
4 handcuffed beyond a percentage both in the base
5 population as well as in their stop frequency. So both
6 of these independent studies are really showing the
7 same thing.

8 I'd like to walk you through a little bit
9 about what the constitutional rights are when we are
10 talking about imposing fines and fees. So Nevada's
11 founders recognized this inherent unfairness in
12 imprisoning people simply because of money owed in both
13 circumstances.

14 Our constitution actually says there shall be
15 no imprisonment for debt, except in cases of fraud,
16 libel, or slander, and the Nevada Supreme Court,
17 interpreting this constitutional clause, said that
18 before a defendant can be imprisoned for a nonpayment
19 of a fine or a fee, a hearing must be held to determine
20 the present financial ability of the individual, and if
21 you find that the individual is indigent, then the
22 sentencing court has to permit either a discharge of
23 the fine, or be entered into a payment plan or find
24 some other avenue for this person to move forward.

25 On a federal level more than three decades

1 ago, the U.S. Supreme Court very clearly established
2 the promises of equality and fairness that are embedded
3 in the 14th Amendment to the U.S. Constitution, and
4 that they protect against the jailing of poor people
5 simply because of their inability to pay.

6 In 1970, the Supreme Court held in Williams V
7 Illinois specifically that the 14th Amendment's Equal
8 Protection Clause prohibited a court from extending a
9 maximum prison term because a defendant failed to pay
10 court costs or fines he could not afford, and the
11 following year the Supreme Court revisited this issue
12 in Tate V Short and said the Equal Protection Clause
13 also prohibited the jailing of an indigent defendant
14 solely because he could not afford to pay a fine
15 imposed under a fine-only statute.

16 Since the '70s federal case law has shown us
17 that individuals who are at risk of imprisonment for
18 failure to pay these fines and fees have a
19 constitutional right to both an ability to pay hearing
20 and the right to counsel.

21 So first I'll talk a little bit about the
22 ability to pay hearing. This was first established in
23 a Supreme Court case, Bearden V. Georgia. This is a
24 landmark decision which ruled that the 14th Amendment's
25 Equal Protection Clause and due process clauses require

1 a judge to conduct a meaningful inquiry into the
2 reasons for failure to pay before jailing somebody for
3 nonpayment of a fine or a fee.

4 Judges must examine the person's ability to
5 pay and their efforts to secure resources to pay, and
6 if the court determines that this person is unable to
7 pay, despite having made a good faith effort to get the
8 money to pay, it has to consider alternative
9 punishments. So alternative punishments to
10 incarcerated.

11 Alternative sentences could include an
12 extension of time to pay, a reduction or a waiver of
13 the amount that's owed, and community service.

14 So Bearden made clear to us that judges can
15 only impose jail if the debtor has been found
16 willfully -- that they have willfully failed to pay, or
17 make real efforts to try to do so. And there has to be
18 good reason to conclude that there's no alternative
19 measures that would accomplish this goal, beyond
20 putting someone in prison.

21 So there's a lot of protections that the
22 judge has to walk through and a lot of protections for
23 people before they should be jailed.

24 The ACLU of Nevada last summer, we spent a
25 few days, we spent four days in municipal court. We

1 went to Las Vegas Municipal Court and the traffic court
2 in the North Las Vegas Municipal Court and we found
3 that this inquiry into an individual's ability to pay
4 just wasn't really happening.

5 Sometimes it was done kind of cursory and
6 when an individual claimed that they weren't
7 financially able to pay, they would allow extensions of
8 time for participation in the work program.

9 But we also witnessed that a defendant who
10 said he wasn't able to pay was still put in jail
11 because he owed \$100 fine, and we also observed --
12 well, I only have five minutes. It went faster than I
13 thought.

14 But I think the biggest concern here, when we
15 are talking about jailing indigent defendants, is the
16 very liberal use of what we call bench warrant. And I
17 know you've heard a little bit of testimony on that
18 today, but just to make clear, a bench warrant is
19 issued when someone has failed to pay the fine or fee,
20 and in this cases -- in these cases after a court is
21 notified, they issue a warrant and then this person can
22 be picked up on the street from a regular traffic stop,
23 or even if the police come to their home because they
24 reported a crime, if they look someone up and they see
25 this person has an active warrant, that person can be

1 arrested. And then what happens is this person is
2 taken to jail without an ability to pay hearing.

3 So this person, if they haven't paid a fine,
4 and they can't pay it, if there's a bench warrant out
5 for them, and they have some type of interaction with
6 the police, they'll end up in jail. And we saw that
7 this is happening repeatedly.

8 When we started to investigate this, we saw
9 that this happens to, you know, almost half of the
10 defendants who were in court when we were observing,
11 had been in jail for some period of time and they
12 weren't able to pay those fines.

13 A really interesting statistic is actually in
14 Henderson. So as of March 13th, so just a couple days
15 ago, 7,417, or over 1,550 -- so over half of the
16 Henderson Municipal Court outstanding warrants are for
17 an individual's failure to pay.

18 So Henderson has over half of their warrants
19 are for people who couldn't pay some type of fine or
20 fee, and could ultimately end up in jail without any
21 type of failure to pay hearing before that.

22 Because I know my time is running short, I
23 want to give the committee a couple of suggestions
24 about how municipal courts can address these problems.
25 The first one -- I think one of the presenters on the

1 policy panel had already talked about this -- is to
2 give courts a bench card.

3 The bench card would tell judges how to avoid
4 sending people to jail because they are unable to pay
5 these court fines and fees. They would walk through
6 procedures how to address people's constitutional
7 rights, and make sure the whole process is followed.

8 It's also really important that there are
9 clear guidelines on what it means to be unable to pay.
10 Judges should, of course, conduct this ability to pay
11 hearing, but how do they determine that?

12 In the Biloxi case that I talked about at the
13 beginning, what they decided and came to an agreement
14 on was that at a minimum a judge should find that, or
15 presume that a person is unable to pay when they earn
16 below 125 percent of the federal poverty guidelines,
17 they are homeless, they are incarcerated, or they
18 reside in a mental health facility.

19 Any type of finding about an inability to pay
20 should be on the record and clearly stated. Going off
21 of what I talked about, I think it's also really
22 important that courts eliminate the use of this failure
23 to pay warrant. What they can do instead is create
24 what's called a compliance hearing. So instead judges
25 can conduct these hearings where they'll inform people

1 of their right to request court-appointed counsel, and
2 go through what their alternatives are to
3 incarceration, as opposed to issuing a warrant that
4 will end up with someone in jail.

5 Like we talked about, there's a lot of fees
6 for participating in a payment plan. There's a fee for
7 participating in community service.

8 These fees should be eliminated. They should
9 never be charged. They should never charged any type
10 of additional fee for anyone who is interested in any
11 type of alternative plan, and I also want to echo some
12 of the other statements that were said today about the
13 use of data and the ability of access, to get access to
14 data, both from the court system about who is being
15 charged with what, what type of hearing are they being
16 given, what type of fines are being assessed. From the
17 jails, who do they have there, how long are people
18 staying there. From the police, we want to know who is
19 being stopped and who is being arrested for inability
20 to pay warrants and what they are doing with that.

21 So all of being able to get this data more in
22 an easily-accessible manner, not through an official
23 public records request, and not where we have to fight
24 with them to get it, I think would really contribute to
25 our ability to understand and our ability to fix the

1 problem. So thank you very much for your time.

2 CHAIRPERSON BLAYLOCK: Thank you. Now Alex
3 Cherup.

4 MR. CHERUP: Okay, perfect, thank you to that
5 comprehensive testimony from the ACLU.

6 I'm Alex Cherup. I'm the first vice
7 president of the NAACP, Las Vegas Branch 1111. Four
8 one's. It's a fun branch title to have. I don't know
9 how we lucked out with that.

10 Bu we're the local branch, and of course at a
11 national level, we know the NAACP is the -- I think the
12 talking point is that it's the oldest and boldest civil
13 rights organization out there in the United States,
14 starting in 1929.

15 So I want to talk a little bit about just how
16 this impacts members of the community, oftentimes
17 members of the community that we don't hear from, and I
18 actually did invite some folks to the hearing today.
19 So some people might come to the -- for the public
20 comment to discuss how this directly impacts their
21 experience in the community and their experience or
22 lack of experience with the justice system.

23 So I want to talk first about how for us at
24 the NAACP, the access to justice issue is really the
25 centerpiece to this discussion in many ways in the

1 complaints that we see coming in and in some of the
2 resolutions from our national organization, and that
3 low income Nevadans and Nevadans of color, particularly
4 black Nevadans, get impacted heavily by this, and this
5 has an on-going negative influence on not only that
6 person's involvement in the justice system, but also in
7 the trust with that justice system. And I think that
8 that's an important piece.

9 From the community member's standpoint is
10 really where does that person fit into this structure
11 that seems to not respect or welcome them from the way
12 it's constructed.

13 So I also want to highlight some examples of
14 which municipal fees and fines can detrimentally impact
15 these communities, and maybe talk a little bit about
16 some big picture solutions with respect to access to
17 justice.

18 So to start off I want to talk a little bit
19 about the complaints that come into our office where
20 most people think that we have lawyers on staff, which
21 we don't, and many times it's a discussion about well,
22 I'm sorry, I would get in trouble if I represented you
23 because I'm not an attorney with the NAACP, and that
24 historic perspective of the Thurgood Marshall days, and
25 so forth, is the expectation.

1 But, on the other hand, that gives us a good
2 window into seeing really this need for somebody to
3 represent or assist in the judicial system.

4 At this particular time I went through, and I
5 looked at the majority of complaints that have come
6 into the office over the past year, and when it comes
7 to civil matters, and even the criminal matters, even
8 though we have this system of the Public Defender's
9 Office, we see that municipal fees, fines, whatever the
10 case may be, the first ask is always: I need somebody
11 to help me. I need a lawyer. I need somebody to walk
12 me through the process. Explain to me.

13 Many times the individuals don't even know
14 what it is that they have done wrong, but feel like
15 they are significantly in trouble with the justice
16 system, and I think that Amy's points about the fines
17 on top of fines, punishments on top of punishments is
18 important.

19 So we see as a whole that this is a thread
20 that doesn't just exist with this issue that we're
21 talking about today, but with the entirety of the
22 judicial system. And Amy talked about access to
23 justice as well and the framework that creates the
24 Public Defender system.

25 It's a case, Gideon V. Wainwright, and I'm

1 from -- I went to law school on the east coast and
2 folks there were really interested in this concept of a
3 civil Gideon, is what the movement is called, and I
4 know Marilyn was working on it for a while.

5 But it's really a focus on creating ways in
6 which people can have access to justice to be able to
7 interpret what charges or fines are in front of them.
8 And we see the NAACP at a national level, we have two
9 resolutions -- one from 2004 and one from 2006 -- that
10 identify this big picture problem.

11 One is the -- is entitled Resolution
12 Requesting Legal Representation for Indigent Citizens,
13 and the other is Civil Legal Aid for Indigent
14 Litigants.

15 Now this is -- of course these resolutions
16 are from over a decade ago, but I still see that they
17 highlight the need of the work that we need to do in
18 the community.

19 One reads: The NAACP encourages every unit
20 in the association to spearhead and/or work in
21 coalition with other community groups, lobby for an
22 initiative for State and Federal legislation that will
23 increase funding to legal services, corporations, lift
24 restrictions on types of cases. Legal services
25 corporation can render services and thus enhancing the

1 chances for counsel for indigent claimants in civil
2 cases and access to justice.

3 In another resolution it highlights that at
4 national estimates, there's about 80 percent of civil
5 litigants, Americans who are not having their legal
6 needs met. I think that's an important piece and as
7 Amy has pointed out, a lot of these individuals are in
8 this structure that's created in these municipal
9 settings.

10 Now when we are talking about the concept of
11 municipal fines and fees, and as I was talking to a
12 couple of folks in particular, about do you want to
13 talk about your experience in the justice system,
14 there's the division between a municipal court and a
15 family court setting.

16 For the individual that comes into the office
17 with a complaint of discrimination, the nature of the
18 court or the setting that they are in is not as
19 relevant as the fact that they don't have any way to
20 access it. And that's one of the points I'm trying to
21 illustrate today in this testimony is saying that this
22 is, at the root, a problem that our community members
23 see and are focusing at the bigger picture, rather than
24 these specific types of courts that need solutions.

25 The community members, any way of getting

1 access and improvement is of course desired, but seeing
2 that bigger picture lack of trust in the way these
3 settings are put together is something that I hear on a
4 daily basis. And sometimes, you know, I'll get calls
5 coming in, just people who have been to every place in
6 the valley, go to the State Bar of Nevada to try to
7 find a referral service, have had bad experiences with
8 attorneys and still unable to get that access, and
9 feeling like they have no real place to go, and
10 sometimes just like a half hour conversation to say
11 hey, I'm just so frustrated right now. I just --
12 aren't I supposed to have access to this system.

13 I heard in the previous -- I came in right at
14 the halfway through the end, and I was hearing people
15 were talking about the share-cropping, that the
16 community service as an alternative, and I happened to
17 have this in my bag. It's Slavery By Another Name.
18 It's by the reporter Douglas Blackmon.

19 I'm usual not a prop type of guy, but I had
20 it in the bag, and I was going to, in fact, talk about
21 this, too.

22 But over -- when we talk about discriminatory
23 practices, especially when it comes to black Americans,
24 we see that in research such as this that these type of
25 judicial structures that came into play after slavery,

1 post reconstruction, this concept of convict leasing
2 often sounds very familiar with this excessive use of
3 fines, and these attempts to have community service
4 demands put on individuals.

5 In this, Douglas Blackmon does a great job of
6 looking at some significant and forgotten historic
7 instances of, you know, rural south, in which you have
8 a quasi-type proto-municipal court setting, with one
9 person who has all of the power, and a black man who is
10 in the community and is then arrested for vagrancy, or
11 arrested for disturbing the peace just by being on the
12 sidewalk. And then what happens is how it was set up,
13 and this is in court records and so forth, is rather
14 than immediate jail, although there was, you know,
15 people locked up, what ended up happening is it would
16 be a fine. And the fine would be \$19.00 for vagrancy.
17 \$45.00 for illegal possession of a firearm, or whatever
18 the charge may be.

19 This municipal court then goes in and says
20 okay, we've got this fine in front of us. Can you pay
21 it? No, I can't pay it. Okay, well, you can either go
22 to jail, or you can have this individual, who is a
23 businessman or a plantation runner in the community,
24 they'll pay that fine, and then you'll go work for
25 them.

1 What ended up happening was it created, and
2 we see in the history that it created the type of
3 post-civil war slavery, and a lot of these initiatives
4 that create the structure for the courts often do start
5 to sound like, although different, sound like it's from
6 that lineage of incorrect and immoral -- as we would
7 think today -- justice. And of course the war on drugs
8 and the war on crime in the '70s and '80s have helped
9 create this.

10 But at the NAACP, I do like to focus on
11 really looking at the history and how some of these
12 structures, in fact, have roots in various types of
13 racism and how do we move forward and continue to
14 create a system that is just for all.

15 I wanted to also highlight with the economic
16 piece, the economic inefficiency, that it's not an
17 efficient way of gathering funds, right? I think we've
18 heard this from the policy folks. It doesn't work.
19 For some types of fees, less than 20 percent of these
20 end up being collected. So as an efficient way of
21 collecting fees, it's used as the justification in many
22 cases, but it's not necessarily the reality.

23 Of course the direct link to racial
24 discrimination when it comes to this matter is the
25 report on Ferguson and looking at that structure and

1 how it impacted black Americans, and that's important
2 for, I think, the Commission to look at.

3 But also I was looking at some old
4 Review-Journal articles and one of the on-going
5 discussions was about how people were comparing the Las
6 Vegas structure to Ferguson, the money hungry
7 structure, and there was continual quotes.

8 One was, you know, that in 2014 the Las Vegas
9 courts collected \$38.00 per resident at \$130 million,
10 which is 85 percent of the total revenue.

11 So I can see why people who aren't
12 necessarily engaged in the system might say hey, Las
13 Vegas feels like it has a Ferguson type setup.

14 I also found as I was going back -- and this
15 is way before my time as a Nevadan, or as anybody
16 talking about these issues -- but I found an old quote
17 from a North Las Vegas judge in 1998 about changing
18 some of the policies and the structures of Las Vegas,
19 and he said with respect to municipal fines and fees,
20 "I know where the gold mine is."

21 To think that comments like this are being
22 said, that the gold mine is the most vulnerable and the
23 most indigent among us, shows that this is a system
24 that is not necessarily taking those needs in mind but
25 taking the needs of its continued growth in mind

1 itself.

2 So I do also want to highlight, and this is
3 something that Amy's review of the Bearden V. Georgia
4 case, and this concept of the Supreme Court being
5 against the imprisonment solely because of indigency.
6 There's a good Dear Colleague letter that the
7 Department of Justice put out that has -- and I like
8 Dear Colleague letters in policy because they have good
9 recommendations, as far as what type of improvements
10 can be made.

11 I think this one from, I believe it's 2015
12 following the Ferguson report, is a good place to turn
13 with respect to seeing these types of solutions.

14 Also, as I wrap up here, I do want to
15 highlight that the focus, I think if you were to talk
16 to the majority of complainants that come into our
17 office, when it comes to any of these issues,
18 especially these fines that don't really seem to have a
19 rational basis, and people feel caught up in a system
20 that's like Franz Kafka's "The Trial," you know, those
21 folks would end up saying, I want access to justice, a
22 civil Gideon-type structure, an enhanced way to at
23 least have somebody listening.

24 I think that looking at different structures
25 that exist in other states and seeing if there might be

1 additional funding moving forward might be helpful.

2 One other piece for this that's important,
3 and was -- it had emphasis in when I was in law school,
4 is looking at the advantages of technology, and I
5 brought along this, it's kind of a novelty idea, but
6 it's been used in New York and it's a Stanford
7 University student who has created, it's called "Robot
8 Lawyer Fights Parking Tickets, and it's a tool, using
9 technology that's able to -- somebody is able to log in
10 for, and he said he offers this service for free, and
11 able to navigate the system, not only giving advice on
12 how that individual can then pursue the next steps in
13 addressing this civil fine or municipal fine, but also
14 at the same time be given some actual ways of going
15 through that process.

16 Now I don't want to take away the attorneys'
17 jobs at the table here, obviously, but I do think that
18 there's some technological advances I see in the state
19 of -- I think it's the state of Washington currently
20 that's working to create opportunities for individuals
21 who have knowledge about the law to be able to provide
22 that knowledge, even not as a licensed attorney, but be
23 able to provide consult in some of these smaller
24 offenses and fees and discover solutions that way.

25 I'm going to close with the idea that if we

1 don't find a solution to this, and we continue to have
2 problems with access to justice, then what ends up
3 happening is, like I said, prior people lose trust in
4 the system and people end up, when they need law
5 enforcement or they need the court system, they feel
6 more afraid to access that. They feel less likely to
7 contact these individuals who may be able to help by
8 remaining out of the system, they feel safer, and I
9 don't think that that's the type of community that we
10 want.

11 The now recent Nobel prize winner for
12 literature has pointed out so accurately, to live
13 outside the law, you must be honest. And that's the
14 type of structure that we're creating right there.

15 So I would like to thank the Commission for
16 the opportunity to speak and look forward to your
17 on-going efforts with respect to this matter.

18 CHAIRPERSON BLAYLOCK: Thank you.

19 MR. MARCELLO: Good afternoon, panel. My
20 name is attorney Dustin Marcello. I'm a lifelong
21 resident of Las Vegas, Nevada. I went to high school
22 at Clark High School, I graduated from UNLV in
23 economics, and went to the Boyd School of Law.

24 I have been practicing for approximately ten
25 years in all courts in Las Vegas, the Supreme Court,

1 the Ninth Circuit, and the Federal Courts of Nevada.

2 I'm in court almost every single day. I do
3 traffic tickets quite often. It's not the main part of
4 our business. We often do it as a courtesy to our
5 clients, and these are the things that I would like to
6 talk about with regards to what this panel is getting
7 at and more the practical ideas of how a lot of these
8 things work.

9 The first place to start in this is with
10 regards to the bail schedule in Nevada. The bail
11 schedule in Nevada is a schedule promulgated by the
12 Justice Court. The Municipal Courts also use one.

13 Basically if you are arrested on any
14 misdemeanor, standard bail -- standard bail means
15 before you ever see a judge, the minute you get brought
16 into jail -- is \$1,000.

17 In order to make that bail, you have to post
18 15 percent with the bondsman. That's \$150. That's on
19 any misdemeanor, including traffic, which is -- by its
20 terms is a misdemeanor, punishable by up to six months
21 in jail or \$1,000 fine.

22 The standard bail schedule changed in 2009
23 and again in 2012. This most recent one is 2015. When
24 they changed the bail schedule, they nearly doubled it
25 in 2009 and 2012. There was no reason for it. They

1 didn't have any type of statistics that said people are
2 more likely to run on certain offenses, they simply did
3 it because other jurisdictions had modified theirs, and
4 we wanted to keep pace with L.A. and cities of a
5 similar size and population. Okay.

6 What it failed to take into account is
7 oftentimes many of those cities have significantly
8 higher median incomes. For instance, L.A. has a nearly
9 \$12,000 higher median income than Las Vegas, and L.A.
10 was largely what was used to double the bail set.

11 When you are brought before the judge and the
12 judge gives you the option, well, you can bail out,
13 it's \$150, or you can pay the \$1,000 and get it back,
14 or you get a trial within 45 days. Okay, that's your
15 options.

16 If he doesn't grant you bail, if he
17 administratively OR's you, which means the jail or the
18 court has an administrative OR program, you are then
19 OR'd and now you can address the case, the actual
20 citation.

21 If you are not brought to jail, then you just
22 have a citation and an order to appear before the
23 court.

24 The bonding system, the bail bondsmen in turn
25 can post a bond for the remaining amount, the \$1,000,

1 and you go to court. You are not entitled to an
2 attorney because the City and the County will say we
3 are not seeking jail time for this offense, for the
4 offense that you committed, and so by the contracts
5 that the Public Defender and the public attorney for
6 the City do not authorize them to represent people, if
7 the prosecuting agency is not seeking jail time.

8 So that's how they get around that. You now
9 go forward with the case.

10 If you want to resolve your ticket, you are
11 not going to go to court less than four times in
12 municipal court. That's four days you have to go and
13 sit there in court and wait. They call them pretrials,
14 or they call them conferences, if they try to resolve
15 the charge.

16 Now I often tell my clients you are hiring me
17 to go down to court for you. I don't get any better
18 deal than you would get yourself. I tell them every
19 time when they hire me, that contrary to popular
20 belief, there's a fine and fee schedule that's tied to
21 the bail schedule.

22 The fines and fees schedule says if I go to
23 court, I can tell you right now exactly what you've
24 got. You've got one to 15 over? \$395 in the system.
25 Okay, you had failure to stop at a stop sign? It will

1 be \$287.

2 I can tell them exactly what the fine is
3 going to be. I tell them right when I talk to them.
4 You are not paying me to do this, anything over and
5 above you don't have to go to court and you can save
6 that hassle and I can just walk in and take care of it.

7 I, however, cannot fight a ticket on your
8 behalf because in order to make it cost effective for
9 me to do it, I would have to charge you more than the
10 ticket.

11 So you can't hire a private attorney to do
12 it, unless you are doing it out of spite and just anger
13 at the situation. So you can't even get a private
14 attorney, unless you want to pay more than what the
15 citation would be.

16 Okay, so now what are you left with? You
17 show up to court, you show up four times. You now go
18 to trial. Who are you in trial in front of? You're in
19 front of Municipal Court.

20 Judges in Nevada are elected. However,
21 they've delegated their authority to a magistrate in
22 the City of Las Vegas. That magistrate is not elected.
23 They are appointed. So now let's say you have an
24 interaction with them. You say you know, that person
25 is really unfair. I'm going to run against them. I'm

1 going to support their opponent. I'm going to change
2 it through an election process.

3 You can't. They are not elected.

4 So you either have to change the entire City
5 Council panel that appointed her, or you've got to
6 change the entire bench of the Municipal Court, all six
7 judges, or that's it. There's nothing can you do.

8 So you have no political recourse against the
9 person if you feel they were unfair or were unjustified
10 in their actions.

11 Now after the bail schedule and after the
12 bonding system, we keep talking about administrative
13 assessments. That's found in NRS 176.059.

14 When you take a look at the administrative
15 assessments you will see -- and what they added is they
16 actually added a \$5.00 fee, I believe it was in 2010,
17 that goes to the general fund now. But in addition,
18 \$5.00 to the general fund, \$2.00 -- or I'm sorry, \$7.00
19 for the Municipal Court, \$2.00 for County Treasurer for
20 special account of the general fund for the juvenile
21 courts, and the rest ends up in the general fund.

22 Now according to Judge Hardesty, who did a
23 presentation to the legislative branch, the funding,
24 significant funding source of the administrative
25 assessment or the significant funding source of the

1 Supreme Court, okay, including the entire judiciary,
2 okay, 60 percent of the Supreme Court's operating
3 budget per year is strictly from the assessments that
4 are added on to misdemeanor cases, and the traffic
5 makes up the complete bulk of that amount.

6 Now once -- the other 40 percent is actually
7 from the general fund, but that's also from the
8 assessment because the assessment goes to the general
9 fund and gets earmarked back to the judiciary.

10 So that's starting at the top, the Supreme
11 Court. We go all the way down to the Municipal Court.
12 90 percent of their funding is from the assessment.

13 Okay, the assessments range from between \$30 and \$120
14 are in relation to the fines.

15 All the fines and the assessments have nearly
16 doubled in my ten years that I have practiced. Which
17 was interesting when everybody was talking about
18 community service, the ten dollars earmark that they
19 have made has never changed, and as far as I know, had
20 never changed before I started. So the fines have
21 nearly tripled since I have been in practice for ten
22 years.

23 So they also credit you. When you go to
24 jail, they say okay, we'll credit you \$100 for what you
25 owe for each day in jail. Well, it actually costs \$179

1 per day to house a prisoner for a single day at any
2 jail in the county, and that's from the most recent
3 report from the R-J. They're crediting you \$100 and
4 that also hasn't changed for ten years.

5 Okay. So, you know, I don't know where
6 exactly they come up with that number, but probably the
7 biggest problem that I think people would recognize is
8 that the assessment also funds the retirement of
9 judges.

10 Three percent goes to the retirement of
11 judges. That is a direct financial benefit to not just
12 the judiciary generally, but to actual judges that are
13 retired, that are -- and that can be found in Section
14 8, down -- in Section 8 of that statute.

15 So when you look at the administrative
16 assessment that's also tied to the amount of the fines,
17 that also is designated that goes to the general fund,
18 that funds nearly 90 percent of the court system.

19 The question then becomes how can you get rid
20 of that, the traffic -- or the fines and fees, okay?
21 You would be essentially getting rid of the judicial
22 branch of the government, okay, and the other 49
23 percent goes to the executive branch that also funds
24 the system.

25 The detention center has been running a

1 budget deficit for nearly three years for overtime.
2 This was highlighted in the article in the R-J, and I
3 have all these articles to provide, if anybody would
4 like to take a look at them, and one of the issues that
5 they have is they said well, we have more inmates.

6 Well, no kidding. You've doubled the bail
7 schedule. You're now putting more people in custody
8 because you've increased the fines, and you now are
9 holding them in custody for nonpayment of those fines.
10 It's not surprising that you now are housing more
11 people and, in fact, I don't have the exact numbers,
12 but who has been arrested used to compile six of the
13 top ten reasons people were sitting in custody were for
14 traffic offenses non-DUI. Seven, if you counted DUI.
15 So that's what they were being held for.

16 So the courts' reliance from the top down,
17 how can anybody feel reliable in the system of justice
18 if they are saying hey, every avenue I go all the way
19 up on appeal is funded by the same thing they are
20 charging me with. It's impossible.

21 The appearance is just so improper that
22 nobody should feel comfortable that the system is set
23 up that way.

24 Justice Hardesty, to his credit, he is trying
25 to get rid of the monetary bail system. I don't know

1 if that's necessarily the answer, because it's still
2 tied into the revenue, which leads to my next point,
3 which is with regards to how the municipal court
4 structures cases.

5 So what they'll do is if you get pulled over
6 and you get three offenses. They assign a separate
7 case number to each offense. They now call that each
8 case is a different case. They now have an A, B, C for
9 the same case number, and they now put an
10 administrative assessment on each case number.

11 They'll put a warrant fee, when you miss your
12 payment on each case number. And the best part is --
13 and this was identified in the Ferguson -- the
14 administrative assessment, by statute, is assessed on
15 each of those case numbers must be paid first before
16 your fine.

17 So you never even get a chance -- oh, and by
18 the way, all the other fees that we have discussed here
19 with regards to \$50.00 to get on a payment plan; \$50.00
20 to sign up for community service.

21 The County uses a private agency called HELP
22 of Southern Nevada. \$50.00 to sign up. It can be
23 waived, but you have to go back in front of the judge
24 to ask him.

25 So what you end up with is you now can't pay

1 any of those fines, or do any of these. First, you
2 have to pay all your assessments, the fees first. And
3 now you never get to address the underlying fine.

4 The most I've ever seen, just so the court is
5 aware, \$16,000 in North Las Vegas Municipal Court.

6 That's the most I ever seen somebody owe, and I just
7 happened to be standing in court that day.

8 The collection methods, to any reasonable
9 purpose, these are completely offensive. The standard
10 practices in the municipal court is they prioritize
11 people that they -- remember I was telling you when
12 they release you on administrative OR for a traffic
13 offense?

14 Well, they prioritize coming after you, once
15 you haven't made your payments, okay, because you were
16 on this administrative assessment. A marshal shows up
17 to your door, with the credit card machine, or with a
18 phone to call the court to pay for the credit card over
19 the phone. Okay. They stand right there. Call your
20 relatives. Call your friends. Here's your cell phone.
21 Call everybody you know for this payment.

22 I, as an attorney in the municipal court, can
23 quash three warrants. After the third warrant, I can't
24 file a motion -- and they assess a graduated fee each
25 time.

1 Okay. For quashing a warrant after the third
2 time, so essentially three missed payments, you now
3 have a fee on every case number that I mentioned. You
4 now have all the assessments, and now I can't even file
5 a motion.

6 I won't even take their money because I know
7 that all they're going to ask for is a payment. Nope,
8 you've got to pay \$500, \$600. And in the meantime
9 they've now issued warrants for non-payments, and they
10 call it nonappearance. But it's nonpayment, to the
11 DMV.

12 The warrant goes instantaneous. When you
13 want to get -- when you go to court and you take care
14 of it? Oh, here's a piece of paper. You have to take
15 it down to the DMV to take care of it.

16 It doesn't go both ways, which leads to an
17 interesting part with regards to how offenses are
18 driven by race, ethnicity and national origin. If you
19 are a Spanish speaker and the officer doesn't speak
20 Spanish. He asks you for your license and
21 registration. He's not going to take the time to
22 figure out why you are looking in your glove
23 compartment.

24 He writes you the ticket and says oh, you
25 just go show up in that court and they'll dismiss it.

1 Right, after you've taken a day off of work, after
2 you've gone down there to show it, oftentimes they'll
3 say if you haven't shown it within a certain period of
4 time, it's just made up by the magistrate, oh, I'm not
5 going to accept this. You should have shown this at
6 the first hearing. It doesn't matter that you have had
7 insurance the entire time.

8 Insurance companies will report to the DMV
9 that your insurance is lapsed when it happens. They
10 then suspend your license. You then get pulled over
11 and now have a driving on suspended license. You now
12 have a \$600 fine. You show them all the paperwork.
13 You took too long to show this paperwork. We're not
14 going to waive the fees, the assessments, and the
15 fines. Again, it goes after the assessments.

16 Now as far as recommendations, the only way
17 is to separate between, you know, one person's need is
18 another man's excess.

19 The only way to separate the issues here is
20 to separate the money from the people that are
21 enforcing the rules. Now I was surprised to learn
22 there has never been a scientific study that has
23 determined that a specific amount of fine leads to a
24 specific amount of public safety, or a change in
25 driving behavior. And in fact, every long-term study

1 has shown that none of the two have anything to do with
2 each other, other than safety improvements in vehicles
3 and reductions in speed. So if that's what it was
4 about, those are the only two things we would focus on.

5 One interesting thing the representative from
6 the ACLU mentioned, everybody is moving towards
7 data-driven law enforcement techniques and predicative
8 policing.

9 What that's going to mean is I'm more likely
10 to pull you over and you're more likely to have a
11 warrant, then I'm more likely to search your car and
12 lo and behold, I'm more likely to find more crime,
13 which will in turn mean more data supporting me
14 searching that particular area.

15 If you go to North Las Vegas, you will see an
16 astronomical amount of riding a bicycle without
17 reflectors. Okay. That is completely limited to North
18 Las Vegas. You don't see that in Summerlin, you don't
19 see it in the municipalities, you don't see it in
20 Henderson.

21 Misuse of a park bench. You know, the king
22 makes it a crime for the poor and the rich alike to
23 sleep on the street; right? These are the types of
24 things that drive these things.

25 But all of these are built not towards public

1 safety. If the original reason was for public safety,
2 then they would be built in a different structure that
3 would say okay, we're deciding how we are going to look
4 at this, how can we change behavior, or what leads to a
5 safer community. But none of them are.

6 The administrative assessments, the
7 presentation by Judge Hardesty, the presentations that
8 were given here today, they indirectly say this is how
9 we are going to fund an entire branch of government.
10 So unless everybody is willing to pay more taxes, and
11 I'm a pessimist, thinking nobody is going to adjust any
12 of these.

13 But I think that the future will fix this for
14 us. What are these governments going to do on a long
15 enough timeline when all traffic is driven
16 electronically, and there are no more traffic fines?
17 What are they going to do?

18 Are they just going to not have an entire
19 branch of government? It's going to happen. It's
20 going to happen in my lifetime. There will be a time
21 when traffic offenses will be an archaic method.

22 So I really think that they need to start
23 thinking about now of funding these branches of
24 government separately and disconnecting and cutting off
25 the source of revenue that's in their own self-interest

1 to keep perpetuating.

2 Now there's over 300, or over 200 different
3 offenses, code violations relating to moving violations
4 in driving a car. Between County, City, state, okay?
5 It is impossible to drive and not get an offense if an
6 officer wants to write you a ticket.

7 The question is how often am I in your
8 neighborhood to write you a ticket? Well, all of a
9 sudden my statistics say all the crime happens here, so
10 we put all the cars there, we pull more people over, we
11 arrest more people and lo and behold, we have more
12 crime.

13 Well, no kidding. That's where you caught
14 everybody. It doesn't mean anybody is doing any less
15 crime in this neighborhood or that neighborhood or over
16 here. Some offenses that are, like I said, are driven
17 by national origin. No insurance, no registration,
18 almost exclusively Hispanic drivers, okay, because
19 oftentimes it's communication.

20 I don't know what you are asking me. Oh,
21 here's the ticket. Just take it to court, they'll
22 figure it out.

23 Also, and one thing I had for
24 recommendations, why aren't the computer systems in the
25 DMV, and the officer and the court coordinated? Okay,

1 I can check your license, registration right there. I
2 shouldn't have to go to court with a printout copy from
3 the DMV saying my registration is good to show you that
4 you now scan into the court file to say it's valid,
5 when all of it -- if I get pulled over and the DMV has
6 put a notice out that my registration is no good, that
7 I get arrested immediately.

8 It's in their system when they want to arrest
9 you, but somehow none of this information is shared or
10 meets anywhere, and I would note that the Justice Court
11 is trying to do something about that. They now have a
12 location branch inside the DMV, that if you have an
13 offense that's with them, then they -- you can try to
14 take care of it and pay it right then and there.

15 But there is absolutely no reason that there
16 shouldn't be a coordination of information between the
17 DMV for -- that make up a majority of the offenses of
18 registration, insurance, things of that nature. And
19 those are just status, by the way.

20 They don't have anything to do with driving
21 behavior. So they don't have anything to do with
22 public safety, necessarily, in and of themselves.

23 So based on that, I'd like to pass it on. I
24 don't want to take anybody else's time. But that's
25 more of a practical nature.

1 If anybody has any other questions about
2 day-to-day, it is some of the most offensive and
3 morally heart-wrenching thing to watch a family get
4 ripped apart. I've physically watched it, as the
5 magistrate for the municipal court put somebody in
6 jail, who is working, who went there on his own to take
7 care of a ticket, while his wife and his newborn baby
8 are standing outside, and they tell him it's his
9 personal responsibility, that he should have taken care
10 of it, while he's standing there, trying to take care
11 of it, and then not say that it's my personal
12 responsibility to make sure a system is fair and just
13 for you, and I think that is probably the biggest
14 problem.

15 Oh, and one last note, it's on the Gilbert
16 hearings, they are completely perfunctory. They don't
17 say you are on social security and fixed income. It
18 doesn't mean you are poor, it just means you pay us
19 with your social security.

20 How silly is it to have one government agency
21 paying another and supporting another, and based on
22 that, I'll just close with that. Thank you very much.

23 CHAIRPERSON BLAYLOCK: Thank you.

24 MS. BROWN: Hi, I'm Hannah Brown, and I'm the
25 only non-attorney person on this subpanel. So I'm glad

1 you got the statistics out of the way.

2 But anyway, whenever you talk to me, you have
3 a little history lesson.

4 I have been here over 71 years -- and I know,
5 huh? When my mother came here with us there were less
6 than a thousand black people in Las Vegas. So I've
7 seen everything change, and when I grew up here as a
8 kid, you always thought that there was a different
9 behavior for black people than there was for -- because
10 this whole city was black and white at the time. And
11 there were probably ten Mexican families, but very lost
12 in the numbers.

13 But you just kind of grew up feeling that
14 there were harsher -- that you were judged harsher if
15 you were black. So needless to say, you kind of tried
16 to walk the straight and narrow and stay out of
17 trouble. So I never knew what trouble was until I
18 became a pretty big kid, almost an adult, because the
19 only time I ever heard of anybody going to jail is some
20 guy slapped his wife and girlfriend around a little
21 bit, and they talked to him and they went away.

22 But then as I got older, I realized that
23 there was a lot of differences and, you know, things
24 began to be publicized a lot more, and if you don't --
25 if you believe there's any fairness in the system, walk

1 into a jail and you see so many more black people,
2 although our population is much smaller.

3 As Dustin has said, I believe there's crime
4 everywhere, not only in your poor populated areas or in
5 your minority areas, but when I got the call from Amy
6 and she asked about if I felt -- I mean about whether
7 or not we felt that fines were -- that fines were
8 really distributed proportionately, I think we all know
9 that this is not true.

10 Because I grew up hearing judges say "I'll
11 throw the book at him," and if you were a black person,
12 you were lucky to get an attorney because that was not
13 a luxury that was afforded us so many years ago.

14 But I don't -- I feel that a lot of the
15 problem that we experience is just really fairness. I
16 really feel that a lot of our law enforcement agencies
17 need to be -- to receive training, sensitivity training
18 on how to deal with different cultures, and we all come
19 from different cultures and that's your police
20 officers, judges included.

21 Because basically I feel that a lot of our
22 fines, and I think you alluded to it quite a bit,
23 Dustin, are based on your physical being, and what the
24 judges see in front of them, or who they see in front
25 of them.

1 So I really don't -- I don't like to ever
2 think, I grew up thinking that, wanting to feel that
3 things didn't necessarily happen to me because I was
4 black. But as I got older, I had to change that a
5 little bit because I had a couple experiences myself
6 that were kind of different for me.

7 I was leaving an event. I'm not crying, I
8 have -- my doctor calls it dry eyes. I call it age.
9 But my eyes tear all the time now, and I always say
10 they are angry.

11 But anyway, I was stopped coming from an
12 event in Henderson one night, and when the attorney
13 pulled -- I mean the attorney -- when the officer
14 pulled me over, he said they received a citizens call
15 saying that there was a little white Mercedes weaving
16 in and out of traffic.

17 So he asked if I would take a -- if he could
18 give me a breathalyzer, and I said of course. So I
19 did the breath test and it came back okay, and he said
20 that's what we like to see.

21 So after I talked to him a while, I got
22 pretty friendly, and I said okay, now that we're
23 friends, you can tell me why you really pulled me over.
24 And of course I had the short hair. You remember when
25 it wasn't so short.

1 But I said now that we're friends, you can
2 tell me why you really pulled me over. I said someone
3 called and said there's a black man going in and out of
4 traffic, weaving in and out of traffic, and he looked
5 at me and he said how did you know? And I said well,
6 this is not a revelation. It's been that way all
7 along.

8 Then, you know, of course he wished me a good
9 evening, and I wished him well, and I thanked him and
10 went on my merry way.

11 Well, I was coming from an event on the
12 second occasion, and this has only been within the last
13 year, and Congresswoman Titus' mom was in the car with
14 me, and the police officer pulled me over and he said,
15 when I rolled the window down, by the time he got to my
16 car, of course I had my license and my insurance card
17 and my registration ready for them. And he said well,
18 you almost ran me over. And he said you ran that red
19 light, and whatever.

20 So I just handed him the material in my
21 hands, and I didn't say anything. He disappeared and
22 went back to his motorcycle and Betty said, "Well,
23 aren't you going to say anything to him?" So I waited
24 until he finished. Of course he ticketed me, and when
25 we drove off, she was like in hysteria because she

1 couldn't figure out why I didn't challenge him about
2 giving me a ticket, and I looked at her and I said,
3 "Betty, white people argue with motorcycle officers.
4 Black people don't." And of course it just devastated
5 her because she absolutely couldn't understand why I
6 felt that I didn't have any more rights than that and I
7 said, "Betty, this is not a revelation."

8 So anyway, long story short, I feel -- I do
9 agree with the entire panel, that there is a lack of
10 fairness when it comes to assessing fees to people of
11 color, and I don't know.

12 Obviously I wish there was -- I wish there
13 was an easy fix, but I really feel that a lot of it has
14 to do with just lack of, it's just lack of fairness, a
15 lack of understanding, and I don't think there is
16 enough sensitivity training within our decision-makers,
17 and I think that, and when -- I've noticed that even
18 with my own career, whenever you receive sensitivity
19 training, it was always from someone white. And I used
20 to look at them and ask them -- I said well, how on
21 earth can you tell me, as a black person, how to be
22 sensitive, when you don't really know how I feel.

23 Because a lot of the problem with our country
24 is, unfortunately, race, and until we get to the point
25 that we can really sit down and discuss race, it will

1 continue to be a problem, and I don't really think we
2 access it enough and that's -- and that's been my
3 experience because when I have been around people that
4 are willing to talk about race openly, it's not a
5 problem.

6 But when you say "race" then people naturally
7 label you immediately, and until we get past that, then
8 we're going to continue to have problems with fairness.

9 You didn't need that sign.

10 CHAIRPERSON BLAYLOCK: Thank you. I'd like
11 to open the forum to the committee to ask questions of
12 our panelists, and Theresa, do you have a question for
13 our panelists?

14 MS. NAVARRO: I just want to say I agree with
15 everything every panelist said, and that I am just
16 really honored and happy that all of you are here and
17 gave your input because I have really been educated
18 today. So thank you.

19 CHAIRPERSON BLAYLOCK: Thank you. Here in
20 southern Nevada, do you have questions from the
21 Committee?

22 MS. COSGROVE: We were having a conversation
23 over lunch -- Sondra Cosgrove, from the League of Women
24 Voters of Nevada -- and that based on what we have
25 heard up until you all spoke, but now definitely

1 hearing you, we're sure of this -- that it seems like
2 when we talk about our justice system, we assume that
3 there are certain outcomes that are supposed to be
4 achieved. We don't want recidivism, we want to make
5 sure the community is safe.

6 Yet what we have heard is that the system is
7 not really aligned to that. It's aligned to generating
8 fees, to making sure there's money to run the system,
9 to make sure the private companies are getting money.

10 So there's a disconnect between what the
11 public thinks is happening, and so they think safe
12 communities, oh, that's a great thing. Why would we
13 want to get rid of that.

14 But the reality is something different. How
15 do we educate the public so they understand that we are
16 really aligning to an outcome that they might not agree
17 with.

18 MR. MARCELLO: You know, it's oftentimes when
19 I talk to clients there's two phrases I use all the
20 time and I'm going to speak a little bit candidly here,
21 but you view a lot of people just a little -- there's
22 nothing much they can do about it.

23 Individually everybody suffers so little that
24 they can't address the problem, and you have to wait
25 until major things happen where groups of people can

1 finally get together to change something.

2 The other problem is people come in and they
3 go, this is ridiculous. And I said I know, because you
4 didn't know how the system worked until you were in it.
5 Now it's too late and nobody really cares.

6 They watch TV and they say okay, we think
7 everybody is doing this in our best interests. I'm
8 sure Michele Fiore, I saw her on here. She went up to
9 the legislature to try to disconnect the monetary
10 incentive for traffic offenses. And they say well,
11 we're doing it for public safety.

12 Really? Because we have 70 years of data
13 that have shown that drivers, the amount of fatalities
14 and the amount of injuries have never changed based on
15 traffic fines.

16 The amount of the penalty has never changed
17 behavior. It's the certainty of it, the embarrassment
18 of even just getting caught is usually enough to say
19 okay, next time I'm going to drive slower, you know,
20 even through warnings.

21 So like I said, the real problem is how to
22 tell citizens of Nevada this is how it's working. I
23 would think it would be better to even have a lottery
24 tax system, where we just say hey, randomly somebody is
25 going to have to pay \$200 to fund our government.

1 At least it would be fair and honest about
2 it, instead of just saying oh, we're doing it for
3 public safety, when in reality, it's just randomness.
4 It's just we expect a certain number of tickets, and
5 you know, and like I said, it's not like -- I don't
6 blame officers.

7 All these statutes exist and they have to
8 enforce them. It's not their fault. They go out there
9 and see it happen. On Monday it might be an offense
10 worth pulling you over. On Tuesday it might not. On
11 Wednesday, it might not.

12 It depends what neighborhood they are in. It
13 depends whether they want to search your car. It
14 depends whether they just want to talk to you.

15 It depends on so many factors, that it is
16 completely random, and by that, it's not consistent,
17 and it's not certain, and those are the two only
18 necessary factors for a punishment to be corrective in
19 nature, and that's -- those are really the issues, is
20 that how you educate the public and the way that you
21 think the system is and the way it is portrayed on TV
22 is not happening.

23 If you want it to work differently, you have
24 to talk to people. You know, that's a problem, and
25 then like I said, now it is so funded that you have the

1 municipal courts, you have the judiciary showing up to
2 the legislature going, no, no, no, we can't change the
3 assessments. What are we going to do with all these
4 programs. You are going to have to raise taxes, and
5 you know what happens next, any time you use the phrase
6 "raise taxes," then everything shuts.

7 Nevada has been a historical -- with the
8 history, from the silver days to gambling, have always
9 been a stop gap measures of how to fund the state
10 without actually having taxes.

11 We have 5,000 people moving here a month.
12 They want social services. But we don't want to tax
13 any of them, and we don't want to raise taxes. So
14 what's the next logical statement? Well, we'll just
15 raise fees, fines and all this other stuff on
16 everybody. And it becomes --

17 MS. BROWN: And you just mentioned that when
18 you say the "tax" word, everybody goes nuts. But I've
19 lived in California, Texas, Georgia, where you really
20 pay a lot of taxes. And I never -- it didn't bother me
21 because I knew that a lot of tax went for education. A
22 lot of tax went for services that you need. So I
23 never -- so I adjusted my mindset accordingly.

24 Well, when we had the education tax that we
25 were trying to get passed, I was a real advocate for

1 that. I almost lost friends over it, but I really feel
2 that that is an answer. It really is, and the states
3 that have taxes have better education systems than we
4 do, and I think that's unfortunate.

5 MS. ROSE: I think, just to add onto all of
6 that, one kind of, you know, possible way to start
7 changing people's mind is also to start with the judges
8 and get them to change their behaviors.

9 So I know there was, you know, the judge from
10 Washoe who was here. But wouldn't it have been great
11 to have the whole Eighth Judicial circuit here,
12 listening to how these fines and fees that they're
13 imposing are impacting people's lives?

14 Because I have to imagine if this is
15 something that somebody does every day, for instance,
16 as the traffic commissioner, you kind of feel numb to
17 all of this, when you hear excuses every day. You hear
18 everybody's sad stories, and they are not as sad
19 anymore.

20 So I think it's important to remind them,
21 either through sitting at things like this, or you
22 know, continued training.

23 I mean I would be happy to go in and talk to
24 them, to do things like that, or have other community
25 organizations to continue to educate the people who are

1 making those decisions about what that means for
2 people.

3 On a just a larger scale level, we're talking
4 about we have to raise taxes. The people who raise the
5 taxes are our elected officials, which means that we
6 need to get good people to run to be those elected
7 officials.

8 So I know that this is a lot of things,
9 especially with the political climate right now, I
10 think a lot of people are really considering getting
11 involved in politics, and being that voice for the
12 things that they believe in. And I think, you know,
13 that we have to encourage each other to do those types
14 of things, to run for office, to run for County
15 Commission, or City Council or a state legislator, or
16 whatever that is, so you are in a position to make
17 those changes.

18 Because we will not get taxes raised unless
19 we have elected officials who are brave and aren't
20 either worried about losing their seat or are willing
21 to stand up. And like she said, I mean you almost lost
22 friends over, like, raising taxes and I think people --

23 MS. BROWN: But I didn't care. I love
24 education. Education is more important to me than the
25 friends.

1 MS. ROSE: Absolutely.

2 MS. BROWN: And if you are that shortsighted,
3 then it's a problem for, you know -- and like you said,
4 you've got to find someone that's brave enough that's
5 going to say hey, you know -- why do you think all
6 these people are moving here? And I've said that to
7 people that were -- when they would say to me, well,
8 what are you talking about raising taxes. I moved here
9 so I wouldn't have to pay taxes.

10 Well, then you are a freeloader. When I
11 lived in California I adjusted. When I lived in
12 Georgia, I adjusted. You know, you just --

13 MR. MARCELLO: Just for a number, in 2014,
14 there was 660,000 charges in the State of Nevada, okay.
15 Now, out of those, only approximately 18 or 20,000 ends
16 up in jail for that year, for the traffic fines, for
17 nonpayment.

18 So what you have is, you know, for, I'm sure
19 many of us, \$395.00 fine, shucks, it makes me mad, but
20 next time I'll try to pay attention.

21 To somebody making the state minimum wage of
22 \$8.25 an hour, it's devastating. And then like we
23 said, the \$250 fee. Oh, yeah, two offenses on there,
24 that's \$500 in fees. And now, for the missed payment,
25 oh, you want to get back on a payment plan? Great.

1 Either pay an attorney or come in here and face being
2 taken into jail that day.

3 You know, the things that they do to make --
4 and they do it, again, these aren't public safety.
5 They are to ensure that you pay.

6 They are not to protect, you know, there's
7 nothing stopping me from getting in my car and driving
8 it, and driving it like a maniac. All you are saying
9 is we are going to make sure that you pay for the
10 original offense you did, and we're going to make sure
11 that the marshals show up, and we're going to make sure
12 -- and by the way, the jail structure is not structured
13 for you to just serve out your time.

14 It's structured to do -- a bit more
15 devastating way. Two days at a time. Three days at a
16 time. \$400 payment. Five days at a time.

17 You know, those are the more devastating
18 things, when you are trying to get back on your feet,
19 trying to get a job.

20 I mean for a lot of people, especially if
21 they are indigent, it would almost be better for them
22 to just say, you know what, heck with it. I'm going to
23 do 60 days in jail and just close out all my fines. At
24 least they start fresh.

25 It constantly has them -- and you know, they

1 do this on purpose and none of it is related to public
2 safety because there can't logically be a public safety
3 thing. If you thought he was dangerous, you give him
4 the jail time to punish him, or to incapacitate him, if
5 you are only doing it one day at a time, what are you
6 really saying you are doing it for, you know.

7 You are trying to coerce what? You are not
8 putting him in jail --

9 MS. JENKINS: Let me make a comment.

10 MR. MARCELLO: Sure.

11 MS. JENKINS: Because you might be answering
12 my general question. So my name is Kara Jenkins. I'm
13 a member of the committee.

14 As Sondra has mentioned, we all have our own
15 personal things outside of the committee. So I'm the
16 legal rights administrator. But we are the Nevada
17 Advisory Committee.

18 So in our capacity as committee members, our
19 goal is to get information from you all testifying
20 today and make a publication that will go to Congress,
21 that will go to Washington, the President. In our
22 capacity in that, what would you like us to convey in
23 our finding on municipal fees and fines? And I'd like
24 everyone to give us maybe one or two thoughts what you
25 would like us to relate in that capacity.

1 MS. ROSE: Sure. I'll start. I think the
2 most important thing to relay is that the fines and
3 fees are unmanageable for poor people, and they serve
4 no purpose, other than to fund certain aspects of the
5 government. There's no criminal justice purpose for
6 these fines and fees. And I'd like you to convey that
7 they have devastating effects on the individuals in our
8 community.

9 You know, there's one individual that I came
10 in contact with who had a failure pay warrant. He was
11 jailed because of it, and he lost his job. He was
12 making \$22.00 an hour, and now he was homeless.

13 So it's impacting our community in really
14 real ways, and I think the flip side of that is there
15 are ways to fix this. It doesn't have to be like this.

16 You know, you have heard a lot of suggestions
17 today about ways to do that, and I think we just have
18 to work together as a community to try to implement
19 those and continue to move forward.

20 MS. JENKINS: Thank you.

21 MR. CHERUP: Yeah, I think for me, as I was
22 talking about during the remarks illustrated what
23 everybody is saying is that well, it is really the
24 ability to have access to that justice, and have a
25 justice system that people can trust and feel a part

1 of.

2 It's for -- the justice system exists for the
3 community, and I think that Sondra's point, I wanted to
4 key in on the idea that a lot of the structure is so
5 punitive in nature. It's not community based, and I
6 know this might sound utopian and theoretical. But I
7 think that our justice system should be there for the
8 community and that everybody should feel valued in that
9 system, and that includes access.

10 But it also includes that idea that Amy had
11 of really, you know, the elected officials and the
12 judges, and I think Amy, Dustin, and Hannah should be
13 going on tour to the different decision-makers and
14 talking about this to help people think about the
15 alternatives to a system that's so, not only based in
16 the money piece, but also based in this punishment,
17 this punitive after punitive act, rather than saying
18 we're all sharing this community. We're all sharing
19 this space. How are we going to benefit one another,
20 rather than consistently over and over again punishing
21 folks. And I see the different disciplines like
22 psychology often don't see it that way now, right?

23 But we seem to still have the idea that
24 punishment needs to be there. So I think really
25 looking at restorative measures in how we look at

1 solutions and making sure that our community as a whole
2 has access to those structures.

3 MS. JENKINS: Thank you.

4 MR. MARCELLO: I think the history has always
5 shown that given the choice between money and
6 accumulation of wealth, and ultimately doing what's
7 right, that money has won out just about every single
8 time.

9 The only way to change a lot of this is to
10 sever the tie that the money can't go to the same
11 people who are in charge of the system that makes you
12 pay it.

13 There's a checks and balance system that is
14 in place that is persuasive in the entire government
15 for these reasons, and I think that like, for instance,
16 if we did a commission, saying, okay, these five
17 offenses are correlated with traffic accidents, traffic
18 thing, whatever it is, okay, and then say for those,
19 we're going to have punitive measures like this.

20 Great. Fine. We believe that these types of
21 punitive measures change these behaviors. Look into
22 those, to change those. All the other offenses,
23 especially status things, registration, insurance, I
24 don't mind if you want to hold them accountable and pay
25 a fine, but it shouldn't go to the people that are

1 adjudicating it to determine whether you did it, and
2 that are overseeing it.

3 Instead, why couldn't it go to a fund in case
4 somebody is hit by somebody without insurance, right?
5 I mean that's what we really want, we want people to
6 not be injured and you not have insurance.

7 So I mean there's ways, and again, I don't
8 want to think in the long run a person to be able to
9 say well, people are getting a free ride. I'm all for
10 that.

11 I understand people have to be accountable
12 and we want to change their behavior. But none of this
13 can you logically say in any way shape or form,
14 scientific studies show we're going to change anybody's
15 behavior, and then it is clear that you are actively
16 scientifically changing it and structuring it to make
17 more money.

18 So you know, I mean which one are you really
19 doing. And so I think people can feel good about their
20 system if they say -- and what our system is trying to
21 achieve if it really is public safety, is to say okay,
22 these five things are public safety related. We're
23 going to have these types of punishments and it does
24 adjust people's behavior, and still even then, none of
25 the money goes to the people that are overseeing it.

1 That is by far -- you cut that tie, I think
2 you will see instantaneous change. But now they can be
3 an independent tribunal again, and not be completely
4 self-interested, or at least the appearance of it.

5 MS. JENKINS: Hannah?

6 (Recorded voice indicating end of
7 conference call.)

8 VOICE: Chris, can you fix that?

9 MS. JENKINS: Chris is gone.

10 MS. BROWN: I don't have a lot to add. I do
11 agree, though, that if you separate the people that are
12 actually benefiting from the people that are making the
13 decisions that it would make a difference.

14 CHAIRPERSON BLAYLOCK: Okay, and we're good,
15 so thank you. We have public comment after this. But
16 our panel right now is -- so you can take a couple
17 moments.

18 (Pause.)

19 CHAIRPERSON BLAYLOCK: So we would like to
20 thank you for this. I've learned a lot. It's been
21 valuable information for us.

22 So thank you for your time. Thank you for
23 sharing your information and your expertise. So thank
24 you very much.

25 We will reconvene for the public comment at

1 4:15.

2 (Recess taken.)

3 CHAIRPERSON BLAYLOCK: We will now open up
4 the floor for public comment. Please keep your remarks
5 succinct and roughly five to seven minutes. We will
6 start with -- I understand we have someone from the
7 community in Reno, so we'll start in Reno, and if I
8 could ask you to please give us your name and the
9 spelling of your name.

10 MR. FEEMSTER: Okay, I'll start out. My name
11 is Lonnie L. Feemster, that's L-O-N-N-I-E, L, Feemster,
12 F-E-E-M-S-T-E-R, and I work with the NAACP National
13 Voter Fund, and I work with the NAACP here in Reno,
14 Nevada, and I'm currently a real estate broker also and
15 I've lived my pretty much whole life here in northern
16 Nevada.

17 So I'm like Hannah. I have been around for a
18 long time, and seen the changes and because of my work
19 in the civil rights area, I'm very interested in the
20 work of the advisory committee and the U.S. Commission
21 on Civil Rights. In addition to the fact that my wife,
22 Deborah, is one of the committee members, but she
23 recently was elected to the school board and couldn't
24 be here today. So I told her that I would sit in on
25 the entire meeting.

1 My concern, and what I have been watching for
2 the last 20 years since I originally was concerned
3 about the census bureau and the racial data
4 collection -- I went to work for the census bureau in
5 2009 to work on the 2010 census, and I have had a
6 couple conversations with the state demographer about
7 the racial categorization of people and the importance,
8 I think I basically told Jeff Hardcastle, you don't
9 know what a Negro is.

10 The reason is I made that point -- Jeff and I
11 have had some very long conversations. He's been very
12 hospitable, and normally we spend an hour to an hour
13 and a half talking about race and this data collection.

14 It is so critical for groups like the NAACP
15 and ACLU that are doing advocacy work on issues of race
16 discrimination, policies and practices that create
17 disparate treatment among people, that it's important
18 that we get accurate data.

19 This came up clearly today. You may not be
20 able to always tell the racial category of a person. I
21 have been stopped by police and ticketed as a Latino, I
22 have been ticketed as a black man, but when I created a
23 serious violation, I was given a warning and I noticed
24 on the warning when I went home that it said white.

25 So the perception of a law enforcement

1 officer was that he was going to warn the white guy,
2 when they saw me as black and Latino, I got a ticket.
3 Now, that was a little troubling to me, but I didn't
4 call him up and say hey, you forgot to give me a
5 ticket.

6 I think what's important is you should not
7 have a 45 percent data collection rate on people. I
8 talked to the Washoe County sheriff's department about
9 racial data collection. I spent two days at the jail
10 watching the inmate population come in during a big
11 event in northern Nevada called Hot August Nights and
12 we didn't complain that they were picking on blacks and
13 Latinos to give them arrests when they were drinking
14 out in public.

15 In neighboring Sparks, you could drink in
16 public. In Reno you can't have an open container of
17 liquor. So people are walking out the door of a
18 casino, and get arrested or they could be told to pour
19 it out or go back in.

20 So there is some discretion by officers when
21 they perceive you, which is part of my point. The more
22 important point is I think that I'd like the advisory
23 committee to be aware of the importance of data
24 collection and more training in the area of
25 professional development, to get the people that

1 collect data to do it accurately in all information
2 that's fed to Nevada organizations from all departments
3 is consistent.

4 The difficulty with -- I started noticing a
5 substantial number of African-American students had
6 disappeared from the school district rolls into the
7 multi-racial category, I could no longer track. But
8 when I went back to the census bureau and looked at
9 their information, it said that 80 percent of the two
10 or more race category are black.

11 The problem is, again, not only is what I
12 perceive myself as, is what I'm perceived as by law
13 enforcement, judges. When justice is meted out in the
14 field and in the courtroom, it's largely what somebody
15 else perceives me as.

16 So I think it's important that we emphasize
17 accurate data collection, more professional training.
18 No one at the jail can tell me why they were collecting
19 racial data, and I asked them some convoluted question
20 about a man from Spain who spoke Spanish and his name
21 sounded like it was Spanish. But I said what would you
22 category him as?

23 But yet these people are putting the data in
24 and then when I met with the sheriff a couple of weeks
25 later they said well, 150 of our Latinos are

1 categorized as white. Well, that's another issue of
2 ethnicity and race.

3 But it's important that people who collect
4 data do it accurately so those that can help the
5 efforts of the ACLU and the NAACP, right now we have
6 people going around with phones. Half of our
7 population has video. That's data.

8 When they collect videos that say look,
9 here's a case of racial discrimination, it's much
10 harder to argue. You don't need a whole box of
11 paperwork to establish that. But I think it would help
12 if the Nevada Advisory Committee can at least provide
13 some input to the state legislature.

14 It's probably too late for this legislature,
15 but the importance of having accurate data collection
16 and professional training, so that people that collect
17 data understand the reason for collecting it.

18 We're not going to totally eliminate racial
19 bias that way, but it will help, and that's kind of my
20 comment on some of what I got today, and I thank all of
21 you. It was an outstanding area. With all my
22 experience in civil rights, this is an area that's
23 very, very important.

24 I've seen a huge impact it can have on the
25 lives of people, and it was almost like it was -- there

1 was so many things coming at me, when you're looking at
2 video cameras and all the things that we're being hit
3 with now, with the 24 hour news, this area has a major
4 impact on people and it's kind of been over here. I
5 didn't even see it.

6 So I've enjoyed coming to the hearings and
7 keep up the good work.

8 CHAIRPERSON BLAYLOCK: Thank you. We
9 appreciate your comments.

10 I understand we have -- oh, there are two
11 people? I apologize, I understand there's someone else
12 in Reno.

13 MS. LYNCH: Are you looking to me to go ahead
14 and speak?

15 CHAIRPERSON BLAYLOCK: Yes, if you could give
16 your name and the spelling of your name.

17 MS. LYNCH: For the record, Pat Lynch. I
18 live in Reno. I brought our technology company to Reno
19 from the Bay Area.

20 We produce streaming on-line, including
21 women's radio, which was the first website streamed for
22 women. We focus on women and children in particular.

23 So I was real happy to hear about this and
24 thank you very, very much for opening it up to the
25 public, and I certainly want you to know that just

1 because the room is not filled with hundreds of
2 thousands of people from the public, it doesn't mean
3 they are not interested. And I think that the comment
4 that the one panelist made that if the public knew some
5 of this information, that they might be surprised. I
6 think that's an understatement.

7 I certainly consider myself to be fairly well
8 informed. I'm on many boards in Reno, including the
9 NAACP, and I actually -- I had to search hard to find
10 the information about coming today, and then to hear
11 some of this really amazing information, and a lot of
12 research has been presented here, I believe to show
13 that the system is broken and needs to be fixed.

14 So when you asked, what would you like us to
15 put in our report to go back to Washington, I think I'd
16 like to ask you to ask this question: No matter which
17 area you are looking at, is this serving the people?
18 And if it's not serving the people, then why are we
19 doing this. And I think that it clearly -- that so
20 much of what we are doing has an attitude of punishment
21 and I think that it's out of place and I think that the
22 system is definitely broken at this point, and I hope
23 the Commission will be powerful to help make changes
24 that are clearly called for, thank you.

25 CHAIRPERSON BLAYLOCK: Thank you and could I

1 ask you to spell your name for the court reporter,
2 please?

3 MS. LYNCH: Sure. First name is Pat, that's
4 P-A-T, last name is Lynch, that's L-Y-N-C-H.

5 CHAIRPERSON BLAYLOCK: And thank you for
6 researching our hearing today, and for the two of you
7 making time to come present your opinions with us. So
8 thank you very much.

9 So here in southern Nevada I understand we
10 have two individuals who would like to make comments.
11 If you could please state your and spell your name for
12 the court reporter.

13 MR. DECHANEL: My name is Jesiah DeChanel.
14 J-E-S -- like September -- I-A-H, last name D -- like
15 December -- E-capital C -- like cat -- H-A-N -- like
16 November -- E-L.

17 I'm here and I believe the issue that myself
18 and my mother are facing are kind of -- dovetails into
19 the issue brought forth for this committee.

20 My mother has been embroiled in this civil
21 lawsuit for almost five years now. It started when her
22 neighbors went onto her property late at night and
23 startled her. So after speaking with code enforcement,
24 what she did is she put a line of plants in between the
25 two properties, and the other side didn't like that and

1 they told my mother to move them, or she would be sued.
2 And true to their word, they sued my mother, and we
3 have been -- she was commanded to move her plants and
4 it was a temporary, it was a temporary order while it
5 was, you know, being litigated. And at that point she
6 didn't have an attorney because she figured that she
7 had the word of code enforcement and she thought that
8 would be good enough. But unfortunately that wasn't
9 good enough.

10 She eventually got the pro bono attorney, but
11 by that point, a lot of damage was done to her case
12 and, you know, like there was some misunderstanding
13 when she got a pro bono attorney, she -- the first
14 judge, Judge Escobar told the court to start from the
15 beginning, and she unfortunately thought that she could
16 move her plants back and so there was no -- there was
17 no feedback from the other side, the tenants that were
18 living there.

19 The plaintiffs who had sued my mother were
20 the homeowners, but not the tenant. So she thought
21 everything was in okay. And in doing so, she
22 unfortunately racked up some fines because of that,
23 because English isn't her first language, and you know,
24 she was given an ultimatum to do several hundred hours
25 of community service.

1 Now my mother is 73 years old and riding a
2 bus to do community service in the hot heat was out of
3 the question, unfortunately, also. So she turned in
4 paperwork from her doctors stating that it would be,
5 you know, against her health to do so. And on July 31,
6 even though the plants were already moved back, per the
7 court order, the opposition tenants were commanded by
8 the plaintiffs to remove my mother's rocks, decorative
9 rock, and they placed papers there.

10 And not only did they do that, they removed
11 my mother's mailbox, even though the first Judge
12 Escobar commanded them not to touch the mailbox. They
13 had already asked her to move my mother's mailbox, but
14 the first judge said no, leave the mailbox alone.

15 So the second judge that was assigned to this
16 case, you know, when we went into court in August of
17 2016, we thought okay, well, we finally have a leg up
18 on them. They defied a court order. But instead he
19 was more aghast that my mother was presenting a
20 certified, you know, doctors' notes, saying that she
21 couldn't do the community service and he didn't mention
22 about them knocking down my mother's mailbox at all
23 and, you know, he commanded my mother to do community
24 service or face 30 days in jail.

25 And so my -- our pro bono attorney said what

1 about, you know, the mailbox they knocked down? The
2 other judge said to leave alone, and he said well, just
3 leave it where it is. And it's been there since July,
4 like he said, like he commanded, and you know, my
5 mother served 21 days in jail for plants that were, as
6 far as code enforcement had told her, were legal and
7 abiding, and they have no problem with.

8 And you know, for I guess the tenants that
9 were living there that were causing my mother so much
10 trouble were so, you know, inundated with, you know,
11 bad looks from all the other neighbors, they finally
12 moved out in November or December of last year, and
13 after years of, you know, us asking them if they want
14 to settle, now they kind of want to settle.

15 But we think it's only because those
16 plaintiffs have moved out and -- but we think that
17 their terms are unfair. They want to -- they want to
18 remove my mother's fence that holds her side yard
19 because they say that they can't get through to one
20 wall of their housing. But my mother lives in a, you
21 know, kind of a bad neighborhood.

22 Just a few months ago a man with a machete
23 was on the news, you know, breaking into someone's
24 house and creating a stand-off. So it's, you know,
25 I've talked to everyone I can. You know, ACLU, NAACP,

1 to try to, you know, get, you know, some justice in
2 this situation. And unfortunately, Mr. Cherup was kind
3 enough to tell us about, you know, this public hearing.

4 So we think it dovetails into this public
5 meeting about the fines and fees. Even when my mother
6 was incarcerated she told me that there were people in
7 there that were incarcerated because, just because of
8 fees and fines, and they weren't violent or wasn't a
9 threat to, you know, the public whatsoever.

10 She told me just right now, too, that someone
11 was originally, you know, put in jail for ten days.
12 But because they couldn't pay the fines, they, you
13 know, were charged with 15 days instead.

14 So you know, I just wanted to, you know,
15 bring that to the attention of this committee. We feel
16 that it's an egregious miscarriage of justice that my
17 mother because, you know, she's poor and couldn't
18 afford, you know, a legal defense, you know, was jailed
19 and has -- has not had a legal mailbox.

20 Fortunately my mother was able to nail a
21 plastic toolbox to a palm tree. And fortunately the
22 mail carriers have been understanding of my mother's
23 situation, so they have been delivering into that, you
24 know, toolbox.

25 There's only been one instance where someone

1 left -- where a mail carrier left a note stating this
2 is not a mailbox, but I guess their management told
3 them the situation and, you know, we have been
4 receiving mail ever since.

5 But, you know, I just wanted to bring it to
6 the attention of this committee and to see if, you
7 know, you can bring it to whoever you need to do the
8 Federal level, the President, or you know, because
9 we're at our wit's end here.

10 I, you know, was added to my mother's lawsuit
11 for whatever reason. I, you know, don't own the
12 property. I have no say over the property. But I mean
13 I'm, you know, I'm scared that now we'll both be going
14 to jail for not being able to pay, you know, the other
15 side's legal fees, and which I think is ridiculous
16 also. Because they keep saying oh, we can't pay our
17 lawyers. We can't pay our lawyers.

18 So then why did you sue my mother in the
19 first place when she's on social security. That's her
20 only source of income, and also, you know, they say
21 that they can't pay. Yet ever since the tenant that
22 caused my mother so much trouble moved out, they have
23 been renovating their property, you know.

24 So apparently the tenant, you know, destroyed
25 the property on the way out. Yet -- so you can pay to

1 renovate your house, yet you can't pay your legal fees.
2 Yet you expect my mother to pay them on her, you know,
3 social security. And I just work at the vacation club,
4 so I'm barely above minimum wage myself.

5 So, you know, we're at our wit's end, you
6 know. Like it's really disgusting and disturbing to,
7 you know -- my mother was incarcerated for plants on
8 her, you know, own property. And, you know, just
9 wanting to put that out there. Hopefully there's
10 something you all can do for the future. You know,
11 we're at our wit's end. I'm sorry. I'm kind of
12 babbling. I don't know what else to do.

13 CHAIRPERSON BLAYLOCK: So thank you for
14 coming and sharing your story and your mother's story
15 with us. We appreciate your information. So thank you
16 very much.

17 MS. BERGQUIST: Can I say something?

18 CHAIRPERSON BLAYLOCK: Yes.

19 MS. BERGQUIST: I would just like to say
20 something to you and to your mom. I want to thank you
21 for being brave and coming and speaking because we have
22 been listening all day about how fees and fines
23 disparately impact minority communities, and whenever
24 we talk about minorities we never talk about Asian
25 Pacific Islanders.

1 So I want to thank you for that because it
2 definitely does impact our community as well. So thank
3 you.

4 MR. DECHANEL: Thank you.

5 CHAIRPERSON BLAYLOCK: Good afternoon.

6 MR. MARIDON: Good afternoon. My name is
7 Joseph Maridon, J-O-S-E-P-H, M-A-R-I-D-O-N, with the
8 Maridon Law Firm.

9 I have been in Las Vegas for about 28 years.
10 I graduated from law school at the Boyd School of Law
11 2003.

12 MS. JENKINS: Can you speak up a little bit,
13 please?

14 MR. MARIDON: So I have been practicing law
15 since 2003. In 2013 my practice has been focused
16 primarily on traffic tickets, so we're back to fees.

17 I know it's been a long day and you have
18 heard a lot about that, but I do have some, I made some
19 notes and I have a story that I would like to share as
20 well.

21 About two months ago I got a call from a
22 young lady. She's a member of a protected class. She
23 had a case in Las Vegas Municipal Court.

24 It came up in 2011 and since that time she's
25 been arrested twice. The original fine, I don't know

1 what it was. It couldn't have been more than \$1,140
2 because that's the maximum fine in Nevada. But she
3 owed something like \$1,600 in Las Vegas, and this is
4 two months ago. Arrested twice. It had been in
5 warrant 20 times.

6 This is just one violation and I believe
7 there were more than one violation on that case.

8 I told her I can't help her. What can I do?
9 I can't make the case go away. All I can do is maybe
10 get her back on payments, but at the end of the day, I
11 don't think that's helping her.

12 You know, I don't -- I didn't have an answer
13 for her. I didn't take her money. I just don't see --
14 I didn't see a resolution, and I see no resolution in
15 that case and a lot of cases in that court.

16 So that's one of the stories that I have.
17 There's lots. I hear them every day for cases in Las
18 Vegas Municipal Court, and I'm talking about that court
19 specifically, but I see the trends in every court in
20 southern Nevada. It's not, certainly not limited to
21 Municipal Court, and it's not limited to Las Vegas.
22 But Las Vegas Municipal Court, by and far, I believe,
23 is the largest offender, if you will.

24 Something has to be done. When I talk to
25 chief judge -- I had a social media conversation with

1 Chief Judge Cedric Kerns not too long ago. His
2 response was political, in my opinion.

3 I think what he did was he used this
4 committee as an excuse to kind of not do anything. The
5 committee hasn't said there's a problem, apparently, at
6 least not yet. So they are waiting for instruction, it
7 seems like.

8 City Councilman Bob Beers chimed in and
9 basically the two of them invited me to come here and
10 ask questions and make comments. So rather than
11 acknowledge that there are issues, they are waiting.
12 They are waiting to see what happens, and I think that
13 I am -- obviously it's been a long day. We've heard
14 from a lot of people and I think the consensus is there
15 is an issue.

16 As far as what I'd like you to take back to
17 Congress, I don't know. I mean what are they going to
18 do? They can't force the municipal court to follow the
19 municipal codes. They can't change the municipal
20 codes. But maybe they can come in and make things
21 fair.

22 I don't see making sweeping changes, like
23 making everything a civil violation, I don't see that
24 as an issue because it's just a different way to police
25 people. That's really what we're talking about.

1 It's the members of the protected class that
2 we can't help that need that protection. So, you know,
3 if we go back to implementing the Civil Rights Act, and
4 things like that, what did Congress do? What did the
5 Department of Justice do?

6 I know in Ferguson, I read the report from
7 the Department of Justice on Ferguson. I saw a lot of
8 parallels, what's going on in Clark County and in Las
9 Vegas, and they just -- something, they just need to do
10 this. They need to come in and investigate.

11 They need to do whatever they can. That's my
12 comment, thank you.

13 CHAIRPERSON BLAYLOCK: Thank you. I'd like
14 to thank all of the panelists and the members of the
15 public for attending.

16 This transcript and other materials will be
17 available within 30 days from this meeting. If you
18 provided your e-mail address when you signed in, we
19 will send you follow up information regarding how you
20 can access those materials.

21 We'll also notify you when the Committee is
22 meeting for follow-up discussion and when the report is
23 available.

24 For those of you who are unaware, the
25 information shared during this hearing will be included

1 in the U.S. Commission's statutory enforcement report
2 that is focused on this topic.

3 The U.S. Commission will hold a briefing on
4 Friday to expand on this topic.

5 The record for this hearing will remain open
6 through April 14, 2017. So if anyone would like to
7 submit written comments, please send them to the U.S.
8 Commission on Civil Rights, 300 North Los Angeles
9 Street, Suite 2010, Los Angeles, California, 90012. Or
10 by e-mail to AFORTES at USCCR.gov. Ana's card is also
11 available at the sign-in table.

12 So I would like to thank everyone for your
13 time and your consideration. Our meeting is adjourned.

14 (Whereupon the proceedings
15 concluded at 4:39 p.m.)
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REPORTER'S CERTIFICATE

I, Lori M. Judd, Fellow of the Academy of Professional Reporters, Certified Court Reporter, licensed by the State of Nevada, do hereby certify:

That I reported the foregoing proceedings on March 15, 2017, commencing at the hour of 9:00 a.m.

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said proceedings are a complete, true and accurate transcription of my said shorthand notes taken down at said time.

I further certify that I am not a relative or employee of an attorney or counsel involved in said action, nor a person financially interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 28th day of March, 2017.

:diLi
L.A. TRV/Mf JUDD
FAP , CCR #233, RMR